



LAW REFORM
COMMISSION/COIMISIÚN UM
ATHCHÓIRIÚ AN DLÍ

ANNUAL REPORT

2010

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FOREWORD

On behalf of the Law Reform Commission, it is a particular privilege and pleasure to introduce the Commission's *Annual Report 2010*. During 2010, the Commission published 7 reports and 3 consultation papers under the Commission's *Third Programme of Law Reform 2008-2014* and in connection with the Commission's relatively recent roles concerning Statute Law Restatement and the Legislation Directory. My fellow Commissioners and I are very conscious that 2010 proved to be another difficult year in terms of the State's finances. In that context, the Commission accepted that a reduction of 35% in its annual grant-in-aid was required.

Despite this very stringent reduction, the Commission remained determined to achieve its targets for the year, and I am proud to say that we managed to do so. We were able to adhere to our ambitious targets through the implementation of project management techniques that have been put in place in recent years in all aspects of the Commission's work. I hasten to add that no amount of project management techniques could have achieved the output levels in 2010 without the enormous commitment, above and beyond the call of duty, of all our staff, both research and administration, and the Commission is extremely conscious of the extra demands placed on all our staff during the past year.

It is always difficult to select from the range of Commission publications in any year those which merit particular mention. In terms of the immediate needs of society, it is unfortunately the case that the Commission's work on personal debt reflected urgent and pressing needs that affect many individuals right now. During 2010, the Commission devoted much time and energy to ensuring that this project was brought to a conclusion. In May, the Commission published its *Interim Report on Personal Debt Management and Debt Enforcement* which set out a 14 Point Action Plan to be carried out by the members of the Working Group convened for that purpose. In November, the Commission published its detailed *Report on Personal Debt Management and Debt Enforcement*, setting out its final recommendations and including a draft *Personal Insolvency Bill*. We are heartened that urgent priority is to be given to implementing the thrust of that Report – and that the 14 Point Action Plan in the *Interim Report* did, indeed, lead to action.

Two other, related, Reports should be mentioned in terms of their long-term effect on our law, the *Report on the Consolidation and Reform of the Courts Acts* and the *Report on Alternative Dispute Resolution: Mediation and Conciliation*. The project on the Courts Acts reflects the Commission's commitment to include in its programme of work projects that involve consolidation – even codification – of key elements of the statute book. In this project, the Commission brought together into a single draft Bill (of 359 sections) the legislation concerning the essential jurisdiction of the courts, together with a number of important reform elements that we hope will facilitate the ongoing efforts of the judiciary and the Courts Service to enhance the effectiveness of the administration of justice. Complementing that work, the project on mediation and conciliation will, I suggest, ultimately allow for the development of an understanding that the concept of "access to justice" has many facets, not least the ability in suitable cases of parties having the ability to control in large measure, through mediation and conciliation, the solutions that best suit them. Naturally, it is vital that the courts remain available and accessible to any persons whose disputes require the formal resolution that the courts bring; but I am convinced that the future development of suitably regulated mediation and conciliation will also play its part.

The Commission's last two publications in 2010 draw attention to the considerable work of the Commission in the review of the Irish statute book in its widest possible sense. When the Commission agreed to the Government's request in 2006 to take functional responsibility for Statute Law Restatement and, subsequently, to the

Attorney General's request to do the same for the Legislation Directory, we realised that these involved two considerable additional tasks, but which would complement our existing law reform role. The projects faced many challenges, not least the need to ensure that the projects would conform to our own high expectations of quality research and that they reflect international eLegislation standards. It is, therefore, especially pleasing to note that, by the end of 2010, the Commission had completed 70 Restatements (many now available in pre-certified form on our website) and had brought the Legislation Directory up to date to 2010 (and added many enhancements, also accessible on the eLSB site hosted by the Office of the Attorney General). In addition, and arising from the Commission's ongoing participation in the eLegislation Group, the Commission developed the first list of Acts of the Oireachtas that remain on the statute book, over 2,000 in all of the 3,000 Acts passed since the foundation of the State in 1922, brought together under 36 major subject-matter headings. My fellow Commissioners and I very much hope that these various efforts to make the legislation of the State more accessible will be of ongoing benefit to all those who seek attempt the sometimes complex task of answering the question: where is the law on that?

As President, I would again like to express my appreciation to all those who have contributed to what has been an exceptionally busy year's work. In particular, those who give so freely of their time and experience to assist the Commission in carrying out its function are all worthy of thanks and praise for their efforts in 2010. I am also very conscious that we had the additional benefit of a wonderful group of interns who made an enormous contribution to the Commission in 2010. Finally, I would also like to reserve a special word of thanks to the Attorney General and the members of his Office who continue to support the Commission in its work in many ways.

Mrs. Justice Catherine McGuinness
PRESIDENT
February 2011

CHAPTER 1

INTRODUCTION

FUNCTIONS OF THE COMMISSION

The Commission is an independent statutory body established by the *Law Reform Commission Act 1975*. The 1975 Act states that the Commission's role is to keep the law under review and to conduct research with a view to the reform of the law, and it defines law reform to include:

- the development of law
- its codification (including its simplification and modernisation) and
- the revision and consolidation of statute law.

Programmes of Law Reform and Attorney General Requests

The Commission's research work has, until recently, arisen from two main sources: first, under a Programme of Law Reform prepared by the Commission and agreed by Government and laid before the Houses of the Oireachtas under the 1975 Act; and second, in accordance with a request from the Attorney General under the 1975 Act.

A Programme of Law Reform is prepared by the Commission, approved by Government and placed before both Houses of the Oireachtas in accordance with the 1975 Act. The Commission's *First Programme of Law Reform* was in place between 1977 and 1999, followed by the *Second Programme of Law Reform 2000-2007*, which was approved by the Government in 2000. In December 2007, the Government approved the Commission's *Third Programme of Law Reform 2008-2014*.

Overview of content of Third Programme

The Commission's *Third Programme of Law Reform 2008-2014* lists 37 projects, including the following:³

- Debt Management and Enforcement Procedures
- Alternative Dispute Resolution
- Consolidation and Reform of the Courts Acts
- The Law of Evidence: Hearsay, Documentary and Expert Evidence
- The Law of Sexual Offences
- Legal Aspects of Family Relationships, including the rights and responsibilities of fathers and other members of the family
- Children and the Law, including consent to medical treatment
- Assisted Human Reproduction
- Insurance Contracts

During 2010, the Commission made further progress in examining 23 of the 37 projects included in the *Third Programme of Law Reform*. This has included the publication of a number of Reports on some of them and the publication of Consultation Papers on others. These are discussed in Chapter 2, below.

Statute Law Restatement, Legislation Directory and a Classified List of Legislation in Ireland

Since 2006, the scope of the Commission's research work has expanded to include two additional areas of activity, Statute Law Restatement and the Legislation Directory

³ See *Report on Third Programme of Law Reform 2008-2014* (LRC 86-2007), available at www.lawreform.ie, and the full list of 37 Projects in Appendix A to this Annual Report.

(previously called the Chronological Tables of the Statutes). Statute Law Restatement involves incorporating all amendments to an Act into a single text, making legislation more accessible. The Legislation Directory is an online searchable guide to legislative changes.

These new roles are fully consistent with the Commission's remit of law reform, which (as indicated) the 1975 Act defines to include the codification of the law, including in particular its simplification, and the revision and consolidation of statute law. The Commission is also conscious that these roles may be of assistance to the wider policy of *Better Regulation*. In Chapters 3 and 4, the Commission discusses the developments in 2010 concerning these additional areas of work, notably the Report on the Legislation Directory (which also includes the Commission's Second Programme of Statute Law Restatement).

In Chapter 5, the Commission discusses the development of a Classified List of Legislation in Ireland, which complements the Commission's work on Restatement and the Legislation Directory, and which has arisen from participation in the eLegislation Group, convened by the Department of the Taoiseach.

STRATEGY STATEMENT 2009-2011

In 2010, the Commission came through the half-way point of its *Strategy Statement 2009-2011*, which provides the framework for the work of the Commission in the three year period covered. The *Strategy Statement 2009-2011* builds on the Commission's experience with its previous strategy statements, and was drafted to take account of the challenging financial environment within which all State bodies must operate. The Strategy Statement reflects the views of the Commission and senior management on what needed to be done to maximise the central role and contribution of the Commission to law reform and to ensure that the organisation operated to optimum efficiency and effectiveness and made the best use of available resources. Like its predecessors, the *Strategy Statement* represents the key priorities of the Commission for 2009-2011, including clear responsibilities and accountabilities for the achievement of these priorities.

Key Objectives in the Strategy Statement

The Commission's *Strategy Statement 2009-2011* identified 4 Key Objectives which it intends to implement over the lifetime of the Statement. These are:

- 1. To progress towards completion to a high standard the examination of: (1) the projects selected by the Commission from the 37 Projects in the Third Programme of Law Reform 2008-2014; and (2) where relevant, the particular areas of law which the Attorney General has requested the Commission to examine.*
- 2. To implement the responsibilities assigned to the Commission by the Attorney General in 2006 in regard to Statute Law Restatement*
- 3. To implement the responsibilities assigned to the Commission by the Attorney General in 2007 in regard to the Legislation Directory (formerly the Chronological Table of the Statutes).*
- 4. Continue to ensure that the research and administrative teams operate together and at optimum efficiency and effectiveness in order to support the Commission in carrying out its role, and with the maximum involvement and participation of staff.*

This Annual Report follows the sequence of these Key Objectives. Chapter 2 mirrors Key Objective 1 and provides an overview of the Commission's work programme in 2010, focusing on the progress made on the projects in the *Third Programme of Law Reform 2008-2014*. Chapter 3 reflects Key Objective 2 and discusses Statute Law Restatement while Key Objective 3 is discussed in Chapter 4, which deals with the Legislation Directory. In Chapter 5, the Commission discusses the development of a Classified List of Legislation in Ireland, which complements the Commission's work on Restatement and the Legislation Directory and which has arisen from participation in the eLegislation Group, convened by the Department of the Taoiseach. In Chapter 6, the Commission discusses developments in 2010 under Key Objective 4, the important relationship between administration and the Commission's research role.

METHODS OF WORK AND CONSULTATION PROCESS

The Commission's Consultation Papers and Reports are based on careful and thorough research. The Commission is also conscious of the importance of ensuring that any proposals for reform are grounded in practice. In the course of preparing proposals, the Commission conducts informal consultations with legal practitioners and also with other relevant professional persons and representative bodies. The practical insights which these contacts provide the Commission are acknowledged in the Commission's publications.

Methodology

To achieve the goals set out in its Programme of Law Reform, the Commission ensures that each project is assigned a Researcher who works under the general direction of the Director of Research. In the case of Statute Law Restatement and the Legislation Directory, researchers assigned specifically to these areas work under the direction of two Project Managers. During 2010, the Commission had the additional benefit of the research input of a number of interns. The Commission also makes use of Working Groups and Project Boards, whose members provide their expertise on a voluntary basis in areas where significant expert input is necessary. A list of Working Groups/Project Boards that were in place in 2010 and their membership is included in Appendix B.

Given the complexity of some of the issues that arise, the Commission regularly consults with experts in particular areas of legal and other professional knowledge on a particular subject. The Commission carries out its work on the basis of a Rolling Work Programme, which contains target dates for the achievement of the various stages of work. In order to assist the Commission in monitoring their achievement of these targets, regular reviews of the Work Programme are conducted through the Commission's quarterly Business Plans. Chapter 2 outlines the Commission's publications and ongoing work programme in 2010.

The consultation process

The consultation process is of central importance to the Commission's work. Consultation may take several forms. In the initial stages of its research, the Commission may meet with experts or practitioners working in a particular area, or representatives of interest groups. The Commission then prepares and publishes a Consultation Paper. The Commission seeks written submissions from interested parties on the provisional recommendations made in the Consultation Paper. These submissions are taken into account in the drafting of the final Report on the subject, and any issues or concerns they raise are dealt with in the Report. Before the drafting of the Report, a seminar is usually held to which the Commission may invite interested parties, or those who have made submissions.

Since 2000, the Commission invariably includes a draft Bill in each Report where it makes recommendations requiring legislative change. The Commission considers that these draft Bills form an important component of its statutory remit under the 1975 Act to include draft legislation where it proposes reform of the law.

In connection with the projects on Statute Law Restatement and the Legislation Directory, the Commission also consults with a wide range of interested parties. This includes the Office of the Attorney General, Government Departments, the Oireachtas, the legal profession and the general public. The Commission has also placed considerable emphasis on the technological aspects of both projects in order to ensure maximum accessibility of published Statute Law Restatements and the maintenance of the Legislation Directory. In particular, the Commission has taken into account the development of the Government's eLegislation strategy and the ongoing modernisation of the Irish statute book in the wider internationally accepted context of *Better Regulation*.

Communication with Government Departments

It has been the practice of the Commission for many years to communicate with government departments as to the projects upon which it is currently engaged or is likely to be engaged in the foreseeable future. The Commission also has an arrangement with the Department of Justice and Law Reform, providing for bi-annual meetings to review matters of mutual interest, both in criminal law and civil law matters. These meetings enable the Commission and the Department to discuss issues being currently addressed by them and of progress in the legislative process.

Meetings with Oireachtas Committees

Since 1998, the Commission has held periodic meetings with the Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights to discuss the work programme of the Commission. The Commission greatly values the meetings with the Committee. In addition, the Commission has met with other Oireachtas Committees from time to time. On 25 March 2010, the Commission discussed with the Committee on Public Accounts the Commission's 2005 *Report on Public Inquiries Including Tribunals of Inquiry*. On 21 June 2010, the Joint Committee on Economic Regulatory considered and discussed with the Commission the ongoing work in 2010 concerning personal debt, which culminated in the Commission's final *Report on Personal Debt Management and Debt Enforcement*, which also formed the backdrop to the Commission's Annual Law Reform Conference, discussed immediately below.

Annual Law Reform Conference

Since 2004, the Commission has hosted an Annual Law Reform Conference connected with the Commission's Programme of Law Reform and rolling work programme. This conference provides the Commission with an opportunity to involve interested parties in practical discussion on a specific project. The 2010 Annual Conference focused on the pressing issue of Personal Debt Management and Debt Enforcement. The Conference took place in Dublin Castle and was attended by a cross section of policy makers (including those within Government Departments), legal practitioners, representatives from the financial services sector and of civil society. This allowed debate on the Commission's detailed Report on this topic, which was published at the same time, and which recommended wide-ranging reform of this area: see the discussion of the Report in Chapter 2.

Conferences, Visits and Media Contacts

Commissioners and research staff also regularly attend and participate in public seminars and conferences. Contacts with law reform bodies are also maintained through attendance at relevant seminars and through hosting visits from other law reform bodies. In 2010, the Commission attended the annual meeting of five law reform commissions (those of England and Wales, Scotland, Northern Ireland, Jersey

and Ireland, respectively), which took place in London in 2010. In addition, news and press releases are distributed to the media to coincide with publication of a Consultation Paper or Report. In general, the Director of Research and Commissioners with lead roles in specific projects act as media spokespersons for the Commission. Appendix C contains details of conferences in which the Commission actively participated and attended during 2010, as well as visits to and from law reform bodies.

CHAPTER 2

LAW REFORM: THE COMMISSION'S PUBLICATIONS, ROLLING WORK PROGRAMME AND IMPLEMENTATION OF ITS WORK IN 2010

INTRODUCTION

In this Chapter, the Commission outlines the content of its key publications (Reports and Consultation Papers) published during 2010 and the other elements of its rolling Work Programme. This Chapter also outlines relevant developments in 2010 concerning implementation of proposals for reform made by the Commission.

Reports and Consultation Papers in 2010

In 2010, the Commission published 7 Reports and 3 Consultation Papers. These were:

- *Interim Report on Personal Debt Management and Debt Enforcement* (LRC 96-2010)
- *Report on Consolidation and Reform of the Courts Acts* (LRC 97-2010)
- *Report on Alternative Dispute Resolution: Mediation and Conciliation* (LRC 98-2010)
- *Report on Inchoate Offences* (LRC 99-2010)
- *Report on Personal Debt Management and Debt Enforcement* (LRC 100-2010)
- *Report on Legal Aspects of Family Relationships* (LRC 101-2010)
- *Report on the Legislation Directory* (LRC 102-2010)

- *Consultation Paper on Jury Service* (LRC CP 60-2010)
- *Consultation Paper on Hearsay in Civil and Criminal Cases* (LRC CP 61-2010)
- *Consultation Paper on a Classified List of Legislation in Ireland* (LRC CP 62-2010)

These publications dealt with 8 projects under the Commission's *Third Programme of Law Reform 2008-2014*, as well as the Commission's work on Statute Law Restatement, the Legislation Directory and a Classified List of Legislation in Ireland.

Rolling Work Programme in 2010

The Commission's rolling work programme during 2010 involved active engagement on 20 of the 37 Projects in the *Third Programme of Law Reform 2008-2014*. The Commission is committed to ensuring that, within available resources, progress is achieved at the earliest possible stage of the lifetime of the Third Programme so that it is completed within the 7 year timeframe envisaged.

Developments in 2010 on the implementation of Commission proposals

In terms of implementation of Commission proposals, a number of Acts passed by the Oireachtas in 2010 involved the implementation of recommendations made by the Commission. These included the *Adoption Act 2010*, the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (Part 15 on Cohabitants) and the *Fines Act 2010*. In addition, a number of Bills before the Oireachtas were based, in whole or in part, on Commission recommendations. These included the *Multi-Unit Developments Bill 2009* (enacted as the *Multi-Unit Developments Act 2011*), the *Criminal Justice (Forensic Evidence and DNA Database Scheme) Bill 2010*, the *Criminal Justice (Defence and the Dwelling) Bill 2010* and the *Civil Law (Miscellaneous Provisions) Bill 2010* (civil liability of good Samaritans and volunteers). The Commission's website, www.lawreform.ie, includes a dedicated section containing

a general overview of the implementation of all Commission Reports, and this is updated on a regular basis.

Headings used to discuss the Commission's work in 2010

The material in this chapter is discussed under the following 8 general headings, which are largely based on the headings in the *Third Programme of Law Reform 2008-2014*:

1. The Legal System and Public Law
2. Law of Evidence
3. Criminal Law
4. Land Law and Trust Law
5. Family Law
6. Specific and Vulnerable Groups in a Changing Society
7. Technology, Innovation and the Individual
8. Commercial Law and the Law of Obligations

1. THE LEGAL SYSTEM AND PUBLIC LAW

Statute Law Restatement

In 2010, the Commission had substantially completed its *First Programme of Statute Law Restatement* through the completion of 70 draft Restatements which were forwarded for certification by the Attorney General in accordance with the *Statute Law (Restatement) Act 2002*. The Commission also published its *Second Programme of Statute Law Restatement* in its *Report on the Legislation Directory* (LRC 102 - 2010). Statute Law Restatement is discussed in more detail in Chapter 3, below.

Legislation Directory

In 2010, the Commission achieved its goal of updating the Legislation Directory for the period 2006 to 2010. In July 2010, the updated material (bringing the Legislation Directory up to date to April 2010) went live on the electronic Irish Statute Book (eISB), hosted by the Office of the Attorney General, www.irishstatutebook.ie, and the Commission also later published its *Report on the Legislation Directory* (LRC 102 - 2010). The Legislation Directory is discussed in more detail in Chapter 4, below.

Classified List of Legislation in Ireland

Arising from its participation in the work of the eLegislation Group, convened by the Department of the Taoiseach, the Commission published its *Consultation Paper on a Classified List of Legislation in Ireland* (LRC CP 63 – 2010). This contains a list of the 2,000 Acts of the Oireachtas (of over 3,000 enacted since 1922) that remain on the statute book. The list is classified under 36 subject-matter headings. The Classified List is discussed in more detail in Chapter 5, below.

Jury Service

In 2010, the Commission published its *Consultation Paper on Jury Service* (LRC CP 60 - 2010) (3rd Programme of Law Reform, Project 1), which examines qualification, eligibility and selection processes for juries, and related matters. This is the first wide-ranging analysis of jury service since the enactment of the *Juries Act 1976*. The Consultation Paper takes account of concerns that the existing processes for jury selection do not result in the selection of juries that are representative of the community.

Among the provisional recommendations made by the Commission are: that the existing blanket excusal from jury service of many professionals and public servants

should be replaced by an individualised excusal “for good cause”; jury panels should be based on the electoral registers for local and European elections, allowing not only Irish citizen but also EU citizens and long-term residents (of 5 years) to be selected for jury service; jurors should be allowed deferral of service for up to 12 months; no person should be prohibited from jury service on the basis of physical disability alone; that capacity be recognised as the only appropriate requirement for jury service; that reasonable accommodation be put in place for hearing-and-visually impaired jurors to assist them in undertaking the duties of a juror; and fluency in English should be introduced as a requirement for all jurors.

The Commission also questions whether the number of objections to jurors without the need to give any reason (“challenges without cause” or “peremptory challenges”) for both the prosecution and the defence should be reduced from the existing seven each. In the Consultation Paper, the Commission invites submissions as to whether some expenses should be paid to jurors, especially self-employed jurors, to cover their direct out-of-pocket costs. The Commission also provisionally recommends that the Courts Service should provide information explaining why jurors should not carry out independent investigations or internet searches about a case. The Commission also invites submissions as to whether the right to inspect the jury panel should be amended.

Debt Management and Debt Enforcement

In 2010, the Commission published an *Interim Report on Personal Debt Management and Debt Enforcement* (LRC 96 - 2010) and a detailed *Report on Personal Debt Management and Debt Enforcement* (LRC 100 - 2010) (3rd Programme of Law Reform, Project 2). These followed from the *Consultation Paper on Personal Debt Management and Debt Enforcement* (LRC CP 56-2009). The Consultation Paper made 122 provisional recommendations for reform across an exceptionally wide and varied range of issues. They include: preventative measures to address personal indebtedness at an early stage, interventions to resolve debt problems in an efficient way; the need to bring debt enforcement processes into line with international best standards; to question the utility of imprisonment as a means of enforcement; and to place this in the context of relevant changes to the financial services regulatory framework. The Commission recommended that a number of areas could be considered by other bodies, such as the Department of Finance and the Financial Regulator.

Because of the urgency of the personal debt problems that had been identified in the Consultation Paper on Personal Debt Management and Debt Enforcement, in January 2010 the Commission established a Working Group on Personal Debt Management and Debt Enforcement to bring forward solutions that could be put in place in the short term. The *Interim Report on Personal Debt Management and Debt Enforcement* (LRC 96-2010) differs from the Commission’s usual form of Report, which generally contains recommendations for reform of the law. Instead, the Interim Report contains the detailed elements of a 14 Point Action Plan arising out of the Commission’s discussions with the Working Group. Among the key elements in the Interim Report’s 14 Point Action Plan are:

1. The further development of a Standard Financial Statement arising from the Review of the IBF-MABS Operational Protocol on Managing Debt. This will have a major practical effect because it will, as the Commission notes in the Interim Report, provide an agreed Irish standard to assess an individual’s total income and total outgoings.
2. Extension of the IBF-MABS Operational Protocol on Managing Debt: this will also bring more financial institutions and other creditors into a nationally agreed debt management process, so that it includes not just IBF members (as at present) but

- also credit unions and, potentially, the so-called “sub-prime lenders” as well as utility companies.
3. Compilation and distribution of comprehensive information for consumer debtors, using a dedicated website (microsite). This would provide a one-stop-shop of all the available information, based on the detailed material compiled in the Interim Report.
 4. Proposal by the Commission and Courts Service management for a Pre-Action Protocol for Consumer Debt Cases, based on Model Statutory Rules of Court set out in the Interim Report. This would impose a mandatory requirement on creditors to issue a warning letter before bringing debt proceedings.
 5. Proposal by the Commission to clarify the status of statutory codes of practice in court proceedings, for example the Financial Regulator’s Consumer Code. At present, it is not clear whether courts can take non-compliance with the Consumer Code into account, for example, by deciding to stay (postpone) a final order or to refuse legal costs.
 6. Proposal by the Commission to reduce the waiting period for a discharge application under the Bankruptcy Act 1988 from the current 12 year period to six years, or less. This would not affect the detailed restrictions in the current bankruptcy law, but would be a modest stepping-stone towards more comprehensive reform, which the Commission envisages in its final Report, discussed below.

The Commission’s final *Report on Personal Debt Management and Debt Enforcement* (LRC 100-2010) makes 200 recommendations for reform, and also includes a draft *Personal Insolvency Bill* and the draft Heads of a Bill to amend the *Bankruptcy Act 1988*. Among the recommendations made in the Commission’s Report are:

1. *Debt Enforcement Office to oversee non-judicial debt settlement system.* A small Debt Enforcement Office would oversee throughout the State the proposed new non-judicial debt settlement arrangements. This would provide an efficient and cost-effective solution to personal insolvency that takes account of the rights of both creditors and debtors. The new process will probably be of most use to individuals who have relatively modest debt levels and assets (including small business-related debts). Under the Commission’s proposals, 60% of creditors must agree to any proposed debt settlement, so cases involving wealthy (or formerly wealthy) individuals will still probably end up in the High Court-based bankruptcy process.
2. *Two new processes: Debt Settlement Arrangement and Debt Relief Order.* The Debt Enforcement Office would include a small independent unit, the Debt Settlement Office, which would license a panel of Personal Insolvency Trustees, appointed after a public tendering procedure and subject to statutory standards. A Personal Insolvency Trustee would manage a *Debt Settlement Arrangement*, which would be for debtors who “can pay” at least some of their debt. In a Debt Settlement Arrangement, creditors and a debtor would make a legally binding commitment in which the debtor would repay an agreed amount of personal debt to creditors over a period of up to 5 years. At the end of this, the debt would be deemed to be repaid in full. The Debt Settlement Arrangement process would only be available to a person who acts in good faith and makes full disclosure of all their assets; if they do not, the process will automatically end and the debtor could be prosecuted. If the debtor complies with the Debt Settlement Agreement, at the end of it he or she would be able to make a “fresh start” without having any damage to their personal credit rating. For debtors whose circumstances are so bad that they have virtually no prospect of paying back any debt (the “can’t pay” debtor or “no assets, no income” situation), the Debt Enforcement Office, with the assistance of the Money Advice and Budgeting Service (MABS), could make a *Debt Relief Order*. This would be a once-off Order, and would simply recognise the reality of an indebtedness that cannot be repaid within a foreseeable time period.

- Unless circumstances changed dramatically for the debtor, the effect of this Order is also that the debt is deemed to be discharged.
3. *Proportionate and holistic debt enforcement mechanisms.* The Debt Enforcement Office would have to ensure that any debt enforcement mechanism is proportionate (the least restrictive and most effective) and that the debtor is left with a minimum standard of living for him/her and any dependants. In addition, any mechanism must be based on a complete picture of the person's indebtedness (the holistic approach to debt). This ensures that an appropriate balance is made between the creditors and the debtor in a specific case. It also means that creditors and debtors do not become involved in the expensive, and often fruitless, debt enforcement processes currently in place. The Debt Enforcement Office would be able to use a wide variety of enforcement mechanisms. These include: instalment orders, attachment of debts orders; attachment of earnings orders; and goods seizure orders. These can also be used in combination with each other, where appropriate. These would also replace outdated processes that date back many centuries. For example, the goods seizure order would replace the current procedure known as "execution against goods" and the order known as "*feri facias*." The *feri facias* order (sometimes abbreviated to "*fi fa*") originated in medieval times when court orders were issued in Latin. The officer carrying out the order, traditionally a Sheriff, was ordered "*quod fieri facias de bonis et catallis, etc.*" The literal translation of these Latin words is "that you cause to be made of the goods and chattels, etc". This meant, in effect, that the sheriff "make good" or obtain enough money to repay the debt owed to comply with the amount specified in the creditor's court order (judgment order). The Commission also recommends abolishing completely imprisonment for non-payment of debt, even for those who "can pay." The Commission sets out in the Report the many arguments against the use of imprisonment in debt cases, which largely echo the valuable and long-standing work of the Free Legal Advice Centres (Flac). The Commission recommends that those who "can pay" and wilfully refuse to obey a court order should still be prosecuted but that the appropriate sanction is a community service order. This would replace the *Debtors (Ireland) Act 1872* and the *Enforcement of Court Orders Acts 1926 to 2009*.
 4. *Judicial personal insolvency law: reform of the Bankruptcy Act 1988.* The Commission proposes a number of significant reforms in the current judicial (High Court based), bankruptcy system, currently regulated by the *Bankruptcy Act 1988*. The judicial bankruptcy process remains a suitable mechanism to deal with large and complex cases or those that can't be resolved using the proposed non-judicial process (for example, because a debtor did not act in good faith). The main recommendations are: automatic discharge from bankruptcy after 3 years, subject to (a) leaving the bankrupt's full estate (including any house) in the bankruptcy; and (b) allowing the High Court's Official Assignee in Bankruptcy to order the bankrupt make repayments for up to 5 years; increase from €1,900 to €50,000 the minimum debt level required to bring a creditor's bankruptcy petition; significant reduction in number of priority debts in bankruptcy (including Revenue debts); introduce system for bankruptcy similar to the procedures for the restriction and disqualification of company directors.
 5. *Regulation of debt collection undertakings.* A licensing system would be introduced to regulate debt collection undertakings, which representative bodies in the sector have already supported. This would also put existing voluntary codes of practice on a statutory footing. The licensing system would also deal with unprofessional debt collection undertakings and, more worryingly, debt collectors who engage in criminal acts such as harassment. The Commission considers that the regulation of debt collection undertakings should be seen in the wider context of the proposed regulation of money advisers which may form part of a *Central Bank Reform Bill* due to be published shortly. While money advice and debt collection involve different activities, they are closely connected and the Commission suggests one regulatory body should be responsible for both.

Search Warrants and Bench Warrants

In 2010, the Commission made substantial progress towards completion of a *Report on Search Warrants and Bench Warrants* (3rd Programme of Law Reform, Project 3) following the publication of its *Consultation Paper on Search Warrants and Bench Warrants* (LRC CP 58-2009). The Consultation Paper pointed out that there are over 100 separate Acts and almost 200 Ministerial Regulations that authorise the Garda Síochána to apply to the District Court for search warrants. Many of these contain different rules about applying for, issuing and executing search warrants. The Commission provisionally recommended that these 100-plus separate Acts should be replaced by a single generally-applicable framework Search Warrants Act, which would contain standard rules on applying for, issuing and executing them. The Consultation Paper also points out that other sector-specific Acts may need to be retained, because they contain important points of detail that could not be dealt with in a framework Act. For example, the *Companies (Amendment) Act 2009* amended the powers of the Office of the Director of Corporate Enforcement (ODCE) to search premises in connection with specific offences. The Commission intends to publish its Report on this area in 2011.

Limitation of Actions

In 2010, the Commission began work on a *Report on Limitation of Actions* (3rd Programme of Law Reform, Project 4), following the publication in 2009 of its *Consultation Paper on Limitation of Actions* (LRC CP 54-2009). The Consultation Paper noted that the *Statute of Limitations 1957* contains seven different limitation periods (1, 2, 3, 6, 12, 30 and 60 years) that apply to a wide range of civil actions. The Commission provisionally recommended that some form of core limitations law should be introduced in Ireland. The Consultation Paper provisionally recommends that: there should be either: (1) one basic limitation period of general application, running for a period of two years; or (2) three basic limitation periods of specific application, of one, two and six years; the basic limitation period should run from the date of knowledge of the plaintiff there should be an ultimate limitation period (“long stop”) of 12 years the ultimate limitation period should apply to contract and tort cases, including personal injuries actions there could be a judicial discretion to extend the time limits in exceptional cases (for example, in cases associated with asbestos exposure). The Commission intends to publish its Report on this area in late 2011 or early 2012.

Alternative Dispute Resolution

In 2010, the Commission published its *Report on Alternative Dispute Resolution: Mediation and Conciliation* (LRC 98 - 2010) (3rd Programme of Law Reform, Project 5), which followed from the *Consultation Paper on Alternative Dispute Resolution* (LRC CP 50-2008). The Report made over 100 reform recommendations and also includes a draft *Mediation and Conciliation Bill*. The Report notes that mediation and conciliation are increasingly being used to try to reach mutually acceptable settlements of civil and commercial cases. These include: big commercial and small consumer claims, employment disputes, family breakdown, medical claims and property disputes.

Among the main recommendations in the Report are that legislation along the lines of the Commission’s draft *Mediation and Conciliation Bill* should be enacted that defines clearly what is meant by mediation and conciliation, including the differences between them (the Bill states that a mediator may assist the parties to reach an agreement, while a conciliator may also make a proposal to the parties to resolve the dispute). The key principles of mediation and conciliation should also be set out, including: they are voluntary processes; the parties control them; confidentiality of the processes is required; and their quality must be assured by clearly stated standards. The Report also recommends that mediation and conciliation can be initiated either: (a) independently of court proceedings or (b) where a court suggests them after court proceedings have begun.

The Report recommends that, where parties include a mediation or conciliation clause in a contract, the courts could stay (stop) court proceedings, and this reflects the approach taken in a 2009 High Court case, *Health Service Executive v Keogh* [2009] IEHC 419. It also recommends that the Government should make an “ADR pledge,” under which Government Departments and State bodies would be required to consider and attempt mediation or conciliation in appropriate cases before initiating court proceedings. As to financial cost, the Commission recommended that parties should, in general, share the cost of mediation or conciliation equally.

The Report recommends that there should also be a statutory Code of Practice for Mediators and Conciliators, which would set out detailed requirements, based on accepted international standards, for all mediators and conciliators, including training requirements. Other emerging areas of ADR should also be dealt with in the statutory Code of Practice. This would include collaborative practice, where professional advisers actively assist and advise the parties/clients to reach, on a voluntary basis, a mutually acceptable agreement to resolve their dispute (including in a family law dispute).

The Report also recommends reforms in specific settings. In family law disputes, parents and guardians could agree a “parenting plan” which would set out the details of day-to-day care and contact arrangements with their children, based on the children’s best interests. In a dispute arising after medical care, health care professionals (such as doctors, dentists and nurses) should be able to make an apology without this being an admission of legal liability. The Report and draft *Mediation and Conciliation Bill* also include provisions to implement the 2008 EU Directive on Cross-Border Mediation in Civil and Commercial Disputes, 2008/52/EC.

Consolidation and Reform of the Courts Acts

In 2010, the Commission published its *Report on Consolidation and Reform of the Courts Acts* (LRC 97 - 2010) (3rd Programme of Law Reform, Project 6), which followed from the *Consultation Paper on Consolidation and Reform of the Courts Acts* (LRC CP 46-2007). The Report was the culmination of a collaborative project between the Commission, the Courts Service and the Department of Justice and Law Reform. The Commission’s Report recommended that the existing Courts Acts should be consolidated into a single *Courts (Consolidation and Reform) Act*. The Courts Acts comprise over 240 Acts in all, almost 150 of which precede the foundation of the State in 1922. Over 100 of these are from the 19th Century, and some even date back to the 13th Century, such as the *Sheriffs Act 1215* (which forms part of the *Magna Carta* of 1215).

The Commission recommended that almost 200 of the 240 Acts should be repealed entirely and replaced by the draft *Courts (Consolidation and Reform) Bill* which the Commission published with the Report. The draft Bill also incorporated a number of significant reforms which the Commission recommended in the Report, intended to enhance the effectiveness of the administration of justice in the courts. As well as replacing almost 200 Courts Acts with a single Act and making wide-ranging reforms, the draft *Courts (Consolidation and Reform) Bill* would reduce down to 359 sections over 1,500 sections from the existing Courts Acts. This would make the law in this vital area for Irish society accessible, modern and with a focus on enhancing the effectiveness and efficiency of the court system. Among the many reform elements in the Commission’s Report and draft Bill are:

1. The draft *Courts (Consolidation and Reform) Bill* requires anyone involved in civil proceedings to comply with “case conduct principles,” and there is a corresponding obligation on the courts to engage in “judicial case management.” These general

provisions are intended to build on the success of the judicial case management procedures already in place in the High Court's Commercial Court. The draft Bill states that: (a) issues between parties should, at as early a stage as possible, be identified, defined, narrowed (where possible) and prioritised or sequenced; (b) proceedings should be conducted in a manner that is just, expeditious and likely to minimise the costs of those proceedings; and (c) the parties should be encouraged to use alternative dispute resolution (ADR) procedures where appropriate, and be facilitated in doing so. The provisions in the draft Bill on ADR complement the Commission's *Report on Alternative Dispute Resolution: Mediation and Conciliation* (LRC 98 - 2010) (3rd Programme of Law Reform, Project 5), discussed above, which proposes a general legislative framework for mediation and conciliation (sections 75 to 77 of the draft Bill).

2. The Bill includes enhanced arrangements concerning the Irish language knowledge of judges of the Circuit Court and District Court in Gaeltacht areas (sections 165 and 175).
3. The Bill provides that courts could protect the identity of parties in civil proceedings in exceptional cases where the needs of justice require this. This could apply, for example, if cases such as the blood product contamination cases of the 1990s had to be litigated in the future (section 206).
4. The Bill includes a single procedure to begin summary criminal cases in the District Court, of which there are between 450,000 to 500,000 every year (over 300,000 of these, more than 60%, involve road traffic offences) (sections 217 to 219).
5. The Bill also includes detailed provisions on the use of Information and Communications Technology (ICT), which will assist existing initiatives on ICT within the Courts Service (sections 226 to 231).
6. The Bill provides that the statutory Rules of Court must be drafted using plain language (which should help minimise the cost of court proceedings), must support the development of case management principles and encourage (as provided for in *sections 75 to 77*) where appropriate, the use of ADR (section 259).
7. The Bill proposes to remove the requirement that approved court forms must always be included in the statutory rules of court, and allowing for them to be published separately, for example, on the Courts Service website, www.courts.ie. The current *District Court Rules 1997* contain almost 1,000 forms (section 263).
8. The Bill proposes that sittings of the High Court to deal with appeals from the Circuit Court in civil cases would be based on the volume of actual appeals at any given time, and this flexibility would replace the current system that requires High Court judges to be sent to deal with these appeals even where the number involved would not justify this inefficient use of judicial resources (section 316).

Tribunals of Inquiry

The *Tribunals of Inquiry Bill 2005*, based on the draft *Tribunals of Inquiry Bill* in the Commission's *Report on Public Inquiries Including Tribunals of Inquiry* (LRC 73 -2005) (2nd Programme of Law Reform, Project 8), was awaiting Report Stage in Dáil Éireann in 2010.

2. LAW OF EVIDENCE

Hearsay in Civil and Criminal Cases

In 2010, the Commission published its *Consultation Paper on Hearsay in Civil and Criminal Cases* (LRC CP 61 – 2010) (3rd Programme of Law Reform, Project 8). The law of evidence concerning hearsay refers to any testimony given by a witness about words spoken or a document generated out of court by another person who is not produced in court as a witness, where the testimony is presented to prove the truth of

what is asserted in the words or document involved. The Commission acknowledges in the Consultation Paper that the constitutional requirement of fair procedures does not completely prohibit the use of hearsay, but that in a criminal case the rights of the accused may prohibit a general rule allowing the general admissibility of hearsay. The main provisional recommendations in the Consultation Paper are that: in civil cases, hearsay should in general be admissible in evidence, subject to certain conditions, notably the need to give advance notice, and a discretion by a court to exclude hearsay if it would be prejudicial or misleading; in criminal cases, hearsay should continue in general to be inadmissible in evidence, subject to existing inclusionary exceptions allowing hearsay to be admissible; and the rules on hearsay in civil and criminal cases should be set out in legislation.

The Commission also provisionally recommends that the existing inclusionary exceptions should be retained, and these include: business records (currently governed by, for example, the *Bankers' Books Evidence Act 1879* and the *Criminal Evidence Act 1992*); confessions and admissions; dying declarations (currently applicable in murder and manslaughter cases only); public documents and published works (currently governed by, for example, the *Evidence Act 1851* and the *Documentary Evidence Act 1925*); spontaneous statements made at almost the same time as the event involved in a case (the *res gestae* rule); and testimony given in certain previous court proceedings. The Commission intends to publish a Report on this area which will also incorporate two other projects on the law of evidence, on documentary evidence, and expert evidence: see below.

Hearsay, Documentary Evidence and Expert Evidence

In 2010, the Commission began work on a composite Report on the Law of Evidence, which will incorporate three projects in the Third Programme of Law Reform. It will build on the *Consultation Paper on Hearsay in Civil and Criminal Cases* (LRC CP 61 – 2010), above, as well as the material in the *Consultation Paper on Electronic and Documentary Evidence* (LRC CP 57-2009) (3rd Programme of Law Reform, Project 7) and the *Consultation Paper on Expert Evidence* (LRC CP 52-2008) (3rd Programme of Law Reform, Project 11). The Commission intends to publish its Report on this area in 2011 or early 2012.

3. CRIMINAL LAW

Defences in criminal law

The *Criminal Justice (Defence and the Dwelling) Bill 2010*, which would implement in part the Commission's *Report on Defences in Criminal Law* (LRC 95-2009) (3rd Programme of Law Reform, Project 18), was at Second Stage in Dáil Éireann in 2010.

Inchoate offences: conspiracy, attempt and incitement

In 2010, the Commission published its *Report on Inchoate Offences* (LRC 99 – 2010) (3rd Programme of Law Reform, Project 19), which followed from the *Consultation Paper on Inchoate Offences* (LRC CP 48-2008). The Report contains the Commission's final recommendations for reform in the law concerning incitement, conspiracy and attempt, together with a draft *Criminal Law (Inchoate Offences) Bill*.

Incitement, conspiracy and attempt are called "inchoate offences" because they criminalise conduct which may be described as working towards the commission of a particular offence. For example, the complete offence of murder requires the wrongful killing of a human being; whereas the offence of attempted murder caters for cases where the accused tries, but fails, to kill the victim. Similarly, the offences of

conspiracy to murder and incitement to murder provide for cases where the accused has made an agreement to kill (conspiracy), or has sought to persuade someone else to kill (incitement). Prosecutions for incitements, conspiracies and attempts are relatively infrequent compared to prosecutions for the offences to which they relate, but charges such as incitement to murder (usually called solicitation), conspiracy to defraud and attempted robbery remain an important part of the criminal law.

Among the key recommendations in the Commission's Report are:

On conspiracy:

- only agreements to commit a criminal offence should be criminal conspiracies. This would be a significant reform of current law. At present the crime of conspiracy includes agreements to commit civil as well as criminal wrongs. In 1881 Charles Stewart Parnell was tried for conspiring with others to encourage non-payment of rent (this arose from one of his "boycott" speeches). This charge would not be possible under the Commission's proposals because payment of rent is a civil, not a criminal, matter.
- abolition of the vague offences of conspiracy to corrupt public morals, conspiracy to effect a public mischief and conspiracy to outrage public decency.
- retention of the offence of conspiracy to defraud, which is sufficiently clear in scope to remain a valuable part of the criminal law.

On attempt:

- the physical aspect of an attempt should be defined as an act which is close to the completion of the target criminal offence and the mental/fault aspect of attempt should be defined as intention that an act constituting a criminal offence be completed. This ensures that the defendant really was trying to commit the target offence.

On incitement:

- incitement should continue to be defined as "encouraging, commanding or requesting" the carrying out of a criminal act with the intention that the act is carried out.

For all three inchoate offences:

- impossibility should not be a defence. This means that the person who pickpockets an empty pocket (not knowing it is empty) may still be guilty of attempted theft even though in the circumstances they had no chance of gaining anything. Likewise, hiring a hit-man to kill a person who is already dead (but where this is not known to the person hiring the hit-man) is still an incitement to murder. This reflects the commonsense view that the blameworthiness of someone who tries to bring about a crime is the same regardless of their chances of success.

Sexual Offences: Capacity to Consent

In 2010, the Commission began work on its project on an aspect of the law of sexual offences (3rd Programme of Law Reform, Project 12). The Commission is aware that the Department of Justice and Law Reform is engaged in an almost full consolidation of the law in this area. The Commission will, therefore, concentrate on specific aspects in respect of which it can assist the Department with reform proposals. In this respect the Commission will focus on the issue of capacity to consent to sexual relationships for those whose capacity may be limited. The Commission intends to publish a Consultation Paper on this aspect of the law in 2011.

Indexation of Fines

The *Fines Act 2010*, which derives from the Commission's *Report on the Indexation of Fines* (LRC 65-2002) (2nd Programme of Law Reform, Project 17), introduced an

automatic system for updating old fines without need for specific legislation to do this. The indexation elements of the 2010 Act came into force in January 2011.

Spent Convictions

The *Spent Convictions Bill 2007*, based on the draft *Spent Convictions Bill* in the Commission's *Report on Spent Convictions* (LRC 84 -2007) (2nd Programme of Law Reform, Project 10), was awaiting Committee Stage in Dáil Éireann in 2010.

4. LAND LAW AND TRUST LAW

eConveyancing Road Map

The Commission's eConveyancing Project involves a comprehensive review and reform of the substantive law (enacted in the *Land and Conveyancing Law Reform Act 2009*) and also embraces the relevant procedural and administrative elements, with a view to the eventual introduction of eConveyancing. Under the *Second Programme of Law Reform 2000-2007* (2nd Programme of Law Reform, Project 23) the Commission oversaw (with the assistance of the Information Society Commission) a modelling of the current conveyancing process in Ireland, which led to the *Report on eConveyancing: Modelling of the Irish Conveyancing System* (LRC 79-2006). The Report sets out the views and recommendations of the Commission on *Modelling of the Irish Conveyancing System*, a report prepared for the Commission by BearingPoint Management and Technology Consultants. The Modelling Report includes the first detailed 'end-to-end' process model of the entire conveyancing transaction, taking account of the roles played by the vendor and purchaser, estate agents, solicitors, financial institutions, local and planning authorities, the Land Registry and Registry of Deeds and other stakeholders. In the next stage of this project (3rd Programme of Law Reform, Project 22) the Commission will, in conjunction with the Department of Justice and Law Reform, assist in developing a roadmap for an eConveyancing system.

Adverse Possession

During 2010, the Commission substantially completed work on its project on the law of adverse possession (3rd Programme of Law Reform, Project 20). The project involves an analysis of the legal principles and rules concerning adverse possession in Ireland and from a comparative perspective. This area of law is often described as the law on "squatters' rights" but the majority of cases involving adverse possession involve the need to clarify title where, for example, a son or daughter has occupied property for many years after inheriting it from a parent but where no formal registration of title occurred. The project will also take into account the implications of the decision of the European Court of Human Rights in *Pye (Oxford) Ltd v United Kingdom* (2007). The Commission intends to publish its Report on this area in 2011.

Trust Law and the Settled Land Acts

During 2010, the Commission substantially completed work on its project on trust law and the Settled Land Acts (3rd Programme of Law Reform, Project 21), which arises from the repeal of the Settled Land Acts by the *Land and Conveyancing Law Reform Act 2009*. The project will complement the Commission's *Report on Trust Law - General Proposals* (LRC 92-2008), which contained a draft *Trustee Bill* to replace the *Trustee Act 1893*, the main legislation concerning the duties and powers of trustees. The Government indicated its intention to publish a *Trustee Bill* in its Legislation Programme 2010.

Multi-Unit Developments, including apartment complexes

The *Multi-Unit Developments Bill 2009* was passed by Dáil Éireann in December 2010. Since the Dáil had made amendments to the Bill as passed by Seanad Éireann, the Seanad considered these amendments in January 2011, following which it was signed into law by the President as the *Multi-Unit Developments Act 2011*. The 2011 Act implements the key elements in the Commission's *Report on Multi-Unit Developments* (LRC 90-2008) (2nd Programme of Law Reform, Project 22).

5. FAMILY LAW

Legal Aspects of Family Relationships: fathers and extended family members

In 2010, the Commission published its *Report on Legal Aspects of Family Relationships* (LRC 101 - 2010) (3rd Programme of Law Reform, Project 23), which followed from the *Consultation Paper on Legal Aspects of Family Relationships* (LRC CP 55-2009). The Report continues the Commission's long-standing work on reform of family law. In its 1982 Report on Illegitimacy, the Commission recommended the abolition of the status of illegitimacy, so that all children would be treated equally in the law. This was implemented in the *Status of Children Act 1987*. The Commission had also recommended in 1982 that automatic guardianship rights and responsibilities should apply to all fathers, regardless of marital status. This has not been implemented in Ireland, although the 1987 Act (and other changes made since then) recognises the importance of the relationship between fathers and their children.

The Report reiterates the view taken in the 1982 Report, and the Commission emphasises that this reflects an appropriate recognition of the rights of children to know their parents and the corresponding rights and responsibilities of fathers. The Report also makes additional wide-ranging recommendations for reform that reflect the changing patterns of family relationships that have emerged in Ireland in recent years. This includes reform concerning the rights and responsibilities of civil partners, step-parents, grandparents, co-habitants and other members of the extended family in contemporary Ireland, taking into account the best interests and welfare of children. The Report also includes a draft *Children and Parental Responsibility Bill*, which would replace the *Guardianship of Infants Act 1964*.

Among the specific recommendations made in the Report are:

- new terms “parental responsibility”, “day-to-day care” and “contact” should replace the terms guardianship, custody and access currently used in the *Guardianship of Infants Act 1964*. The new terms would give a clearer indication of what is actually involved in this part of family law; and remove any misunderstanding that parental rights involving children exist without corresponding responsibilities. It would also ensure that the terms used in Ireland would be in line with those used in many other States and in international instruments to which Ireland is a party.
- parental responsibility (guardianship) should be defined in legislation as including the duty to maintain and properly care for a child, the right to apply for a passport for the child and the right to make decisions about where a child will live, a child's religious and secular education, health requirements and general welfare.
- day-to-day care (custody) should be defined in legislation as including the ability of the parent, or person in loco parentis, to exercise care and control over a child on a day-to-day basis, to protect and to supervise the child.
- contact (access) should be defined in legislation as including the right of the child to maintain personal relations and contact with the parent or other qualifying person on a regular basis, subject to the proviso that contact must be in the best interests of the child.
- mothers and fathers (including non-marital fathers) should have automatic joint parental responsibility (guardianship) for their children.

- there should be automatic joint registration of both parents on a birth certificate (intended to reinforce the right of a child to know their parents).
- legislation should facilitate the extension of parental responsibility to civil partners and step-parents. The Commission recommends that civil partners and step-parents could obtain parental responsibility by way of an agreement with the other parties who have parental responsibility for the child or by application to court.
- where parental responsibility is extended by court order the court shall have regard to, among other factors, the wishes and best interests of the child and the views of other parties with parental responsibility.
- the ability to apply for day-to-day care (custody) should be extended to relatives of a child, persons in loco parentis and persons with a bona fide interest in the child in circumstances where the parents are unable or unwilling to exercise parental responsibility.
- the draft *Children and Parental Responsibility Bill* in the Report uses the proposed new terms and, as well as replacing the *Guardianship of Infants Act 1964*, incorporates the reforms made in the Report.

Adoption

The *Adoption Act 2010* implemented the 1993 Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption. This had been recommended by the Commission in its *Report on Aspects of Intercountry Adoption* (LRC 89-2008), reiterating a previous recommendation made by the Commission in 1998.

Cohabitants

Part 15 of the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* was based on the draft *Cohabitants Bill* in the Commission's *Report on the Rights and Duties of Cohabitants* (LRC 82 - 2006) (2nd Programme of Law Reform, Project 30). The 2010 Act came into force in January 2011.

6. SPECIFIC AND VULNERABLE GROUPS IN A CHANGING SOCIETY

Children and the Law: medical treatment

During 2010, the Commission substantially completed work on its Report on the law of consent to medical treatment by children (3rd Programme of Law Reform, Project 26), following from the *Consultation Paper on Children and the Law: Medical Treatment* (LRC CP 59-2009). The main provisional recommendations in the Consultation Paper on 16 and 17 year olds were that they should be presumed to have full capacity (based on a functional test of understanding) to consent to, and refuse, medical treatment, including surgery and in terms of access to contraception. The Commission will publish its Report on this area in the first half of 2011.

Legal Aspects of Carers

During 2010, the Commission substantially completed work on its Report on Professional Home Carers (3rd Programme of Law Reform, Project 29), following from the *Consultation Paper on Legal Aspects of Carers* (LRC CP 53-2009). Under the *Health Act 2007*, the Health Information and Quality Authority (HIQA) is the regulatory and standard-setting body for the residential nursing home setting, but the 2007 Act does not empower HIQA to set standards for the provision of health care in the home setting, which would cover about 95% of the over 65 category. The Commission will publish its Report on this project in the first half of 2011.

7. TECHNOLOGY, INNOVATION AND THE INDIVIDUAL

Assisted Human Reproduction

In 2010, the Commission began work on its project on assisted human reproduction (3rd Programme of Law Reform, Project 31). This project will examine the need for regulation in Ireland, taking into account general policy reviews already done in this area. The project will include the legal aspects of sperm donation, surrogacy and related issues such as consent. The Commission will liaise with those who have particular expertise in the scientific and medical aspects of this area, as well as with the Department of Health and Children.

8. COMMERCIAL LAW AND THE LAW OF OBLIGATIONS

Insurance Contracts

During 2010, the Commission substantially completed work on a Consultation Paper on Insurance Contracts (3rd Programme of Law Reform, Project 34). The Consultation Paper, which the Commission will publish in 2011, will review existing rules concerning insurance contracts, such as formalities, material non-disclosure, 'basis of contract' clauses and the concept of insurable interest. The Consultation Paper will examine whether these rules would benefit from codification, from the perspectives of business efficiency and consumer protection.

Civil Liability of Good Samaritans and Volunteers

Part 3 of the *Civil Law (Miscellaneous Provisions) Bill 2010*, which would implement the thrust of the Commission's draft *Civil Liability (Good Samaritans and Volunteers) Bill* in its *Report on Civil Liability of Good Samaritans and Volunteers* (LRC 93-2009), was at Second Stage in Dáil Éireann in December 2010. Part 3 of the 2010 Bill proposes to insert a new Part IVA into the *Civil Liability Act 1961* (which would then comprise sections 51A to 51G of the 1961 Act).

CHAPTER 3

STATUTE LAW RESTATEMENT

OVERVIEW

In 2010, the Commission substantially completed work on its *First Programme of Statute Law Restatement* (which had been extended in 2009) by completing 70 Restatements, many of which were placed in pre-certified form on the Commission's website. In the second half of 2010, the Commission also adopted a *Second Programme of Restatement 2011 to 2012* developed in consultation with a User Group and by reference to submissions received. Preliminary work on the Second Programme began at the end of 2010.

WORK IN 2010 ON THE COMMISSION'S FIRST PROGRAMME OF STATUTE LAW RESTATEMENT

The Commission's extended *First Programme of Statute Law Restatement* encompasses restatements of 74 Acts, including groups of related legislation. The list of Acts in the extended Programme below is arranged in accordance with the *Classified List of Legislation in Ireland* as set out in the Commission's *Consultation Paper on a Classified List of Legislation in Ireland* (LRC CP 62-2010), discussed in Chapter 5. The progress in relation to each Act is noted in the right hand column. Under the *Statute Law (Restatement) Act 2002*, Restatements are certified by the Attorney General and laid before the Oireachtas.

The Restatements are completed in XML format suitable for online publication, with PDF versions also available. Pre-certified Restatements are published on the Commission's website for feedback and comment.

5. CITIZENSHIP, EQUALITY AND INDIVIDUAL STATUS	
5.3 Equality	
- Equal Status Act 2000	Restatement to OAG
- Equality Act 2004	Amends 2000 Act
- Civil Law (Miscellaneous Provisions) Act 2008	Amends 2000 Act
5.9 Data Protection	
- Data Protection Act 1988	Restatement to OAG
- Data Protection (Amendment) Act 2003	Amends 1988 Act
6. CIVIL LIABILITY (CONTRACT AND TORT) AND DISPUTE RESOLUTION	
6.1 General Principles of Civil Liability	
- Civil Liability Act 1961	Restatement to OAG
- Civil Liability (Amendment) Act 1964	Restatement to OAG
- Civil Liability (Amendment) Act 1996	Amends 1961 and 1964 Acts
- Civil Liability and Courts Act 2004	Restatement to OAG
6.2 Civil Liability: Contract	
- Sale of Goods Act 1893	Restatement to OAG
- Sale of Goods and Supply of Services	Restatement to OAG

Act 1980	
6.3 Civil Liability: Tort (Non-Contractual Liability) - Product Liability	
- Liability for Defective Products Act 1991	Restatement to OAG
6.4 Limitation Periods	
- Statute of Limitations 1957	Restatement to OAG
- Statute of Limitations (Amendment) Act 1991	Restatement to OAG
- Statute of Limitations (Amendment) Act 2000	Amends 1957 and 1991 Acts
6.8 Non-Judicial Compensation Assessment Arrangements	
- Personal Injuries Assessment Board Act 2003	Restatement to OAG
- Personal Injuries Assessment Board (Amendment) Act 2007	Amends 2003 Act

10. CRIMINAL LAW	
10.2 Criminal Law: Specific Part (Specific Offences) - Firearms and Offensive Weapons	
- Firearms Act 1925	Restatement to OAG
- Firearms Act 1964	Restatement to OAG
- Firearms (Proofing) Act 1968	Restatement to OAG
- Firearms Act 1971	Restatement to OAG
- Firearms and Offensive Weapons Act 1990	Restatement to OAG
- Firearms (Temporary Provisions) Act 1998	Restatement to OAG
- Firearms (Firearm Certificates for Non-Residents) Act 2000	Restatement to OAG
10.2 Criminal Law: Specific Part (Specific Offences) - Bribery and Corruption	
- Public Bodies Corrupt Practices Act 1889	Restatement to OAG
- Prevention of Corruption Act 1906	Restatement to OAG
- Prevention of Corruption Act 1916	Restatement to OAG
- Prevention of Corruption (Amendment) Act 2001	Restatement to OAG
- Prevention of Corruption (Amendment) Act 2010	Amends 1906 and 2001 Acts
10.3 Criminal Procedure, including Arrest - General	
- Criminal Procedure Act 1967	Restatement to OAG
- Criminal Law Act 1997	Restatement to OAG
- Criminal Justice Act 2006	Restatement to OAG
- Criminal Justice Act 2007	Restatement to OAG
- Criminal Justice (Miscellaneous Provisions) Act 2009	Amends Firearms Acts
10.5 Money Laundering and Proceeds of Crime	
- Proceeds of Crime Act 1996	Restatement to OAG
- Criminal Assets Bureau Act 1996	Restatement to OAG
- Proceeds of Crime (Amendment) Act 2005	Amends 1996 Act

11. DEFENCE FORCES	
11.1 Defence Forces: General	
- Defence Act 1954	Restatement to OAG
- Defence (Amendment) (No. 2) Act 1960	Restatement to OAG
- Defence (Amendment) Act 1979	Amends 1954 Act
- Defence (Amendment) (No. 2) Act 1979	Amends 1954 Act
- Defence (Amendment) Act 1987	Restatement to OAG
- Defence (Amendment) Act 1990	Amends 1954 Act
- Defence (Amendment) Act 1998	Amends 1954 Act
- Defence (Amendment) Act 2006	Amends 1954 Act
- Defence (Amendment) Act 2007	Amends 1954 Act
- Defence (Miscellaneous Provisions) Act 2009	Amends 1954 Act
11.2 Defence Forces Ombudsman	
- Ombudsman (Defence Forces) Act 2004	Restatement to OAG
11.3 Courts-Martial Appeals	
- Court Martial Appeals Act 1983	Restatement to OAG

14. EMPLOYMENT LAW	
14.5 Employment Equality	
- Employment Equality Act 1998	Restatement to OAG
14.10 Maternity Protection, Adoptive, Carers' and Parental Leave	
- Maternity Protection Act 1994	Restatement to OAG
- Maternity Protection (Amendment) Act 2004	Amends 1994 Act
- Adoptive Leave Act 1995	Restatement to OAG
- Adoptive Leave Act 2005	Amends 1995 Act
- Parental Leave Act 1998	Restatement to OAG
- Parental Leave (Amendment) Act 2006	Amends 2006 Act

15. ENTERPRISE AND ECONOMIC DEVELOPMENT	
15.11 Tourism	
- Tourist Traffic Act 1939	Restatement to OAG
- Tourist Traffic Act 1952	Restatement to OAG
- Tourist Traffic Act 1955	Restatement to OAG
- Tourist Traffic Act 1957	Restatement to OAG
- Tourist Traffic Act 1966	Restatement to OAG
- Tourist Traffic Act 1970	Restatement to OAG
- Tourist Traffic Act 1983	Restatement to OAG
- Tourist Traffic Act 1995	Restatement to OAG
- National Tourism Development Authority Act 2003	Amends Tourist Traffic Acts

23. LAND LAW, SUCCESSION AND TRUSTS	
23.4 Succession and Wills	
- Succession Act 1965	Restatement to OAG

25. LOCAL GOVERNMENT	
25.1 Local Government: General	
- Local Government Act 2001	Restatement to OAG
26. NATIONAL GOVERNMENT	
26.6 Ethics and Standards in Public Office	
- Ethics in Public Office Act 1995	Restatement to OAG
- Standards in Public Office Act 2001	Restatement to OAG
26.7 Freedom of Information and Official Secrets	
- Freedom of Information Act 1997	Restatement to OAG
36. TRANSPORT	
36.5 Road Traffic and Road Transport – Road Traffic	
- Road Traffic Act 1933	These restatement in process
- Road Traffic Act 1961	
- Road Traffic Act 1968	
- Local Authorities (Traffic Wardens) Act 1975	
- Road Traffic (Amendment) Act 1984	
- Roads Act 1993	
- Road Traffic Act 1994	
- Roads (Amendment) Act 1998	
- Road Traffic Act 1995	
- Road Traffic Act 2002	
- Road Traffic Act 2003	
- Road Traffic Act 2004	
- Road Traffic Act 2006	
- Road Traffic and Transport Act 2006	
- Roads Act 2007	
- Road Traffic Act 2010	Amends various Road Traffic Acts
36.5 Road Traffic and Road Transport – Public Transport and Road Transport	
- Road Transport Act 1933	Restatement to Dept. for review
- Road Transport Act 1934	Restatement to Dept. for review
- Road Transport Act 1935	Restatement to Dept. for review
- Transport (Miscellaneous Provisions) Act 1955	Restatement to Dept. for review
- Transport Act 1958	Restatement to Dept. for review
- Road Transport Act 1971	Restatement to Dept. for review
- Road Transport Act 1978	Restatement to Dept. for review
- Road Transport Act 1986	Restatement to Dept. for review
- Road Transport Act 1999	Restatement to Dept. for review
- Road Traffic and Transport Act 2006	Amends various Road Transport Acts

This list also includes updated and restructured Restatements of legislation restated by the Office of the Attorney General in 2003 and 2004: Sale of Goods

Acts 1893 and 1980, Succession Act 1965, Tourist Traffic Acts 1939 to 2006 and Defence Acts 1954 to 2007.

THE COMMISSION'S SECOND PROGRAMME OF STATUTE LAW RESTATEMENT

As already mentioned, in the second half of 2010, the Commission adopted a *Second Programme of Restatement 2011 to 2012* developed in consultation with a User Group and submissions received. Preliminary work on the Second Programme commenced at the end of 2010.

The *Second Programme of Restatement* involves 12 groups of Acts and an additional 3 groups, to be undertaken if there is time. The groups of Acts are as follows:

1. Aquaculture
2. Children
3. Criminal Law (Bail Act and Offences Against the State)
4. Dumping at Sea
5. Electoral (if there is time)
6. Employment
7. Environmental Protection Agency
8. European Communities
9. Family
10. Foreshore
11. Irish Nationality and Citizenship
12. Mental Health
13. Planning and Development
14. Waste Management (if there is time)
15. Water (if there is time)

Full details of the Acts included in the Second Programme are set out on the Commission's website.

CHAPTER 4 LEGISLATION DIRECTORY

OVERVIEW

In 2010, the Commission reached a major milestone by completing the updating of the Legislation Directory to 2010. Since taking functional responsibility for the Legislation Directory in 2007, the Commission has added a number of enhancements, and these are now also accessible on the eISB site hosted by the Office of the Attorney General.

THE COMMISSION'S WORK IN 2010 ON THE LEGISLATION DIRECTORY, INCLUDING ITS REPORT

In July 2010, updated material (bringing the Legislation Directory up to date to from January 2006 to April 2010) went live on the electronic Irish Statute Book (eISB), hosted by the Office of the Attorney General, www.irishstatutebook.ie. The Commission will continue to provide updates to the AGO on a regular basis. The Commission will endeavour to supply monthly updates but in this regard it is dependent on the availability of relevant legal texts.

The Commission's *Report on the Legislation Directory* (LRC 102-2010) describes how the Commission has developed the format, content and ongoing maintenance of the Legislation Directory, and what further enhancements are in train. The main developments since the Commission took responsibility for the Legislation Directory are:

- The Commission developed an XML authoring tool for the Legislation Directory, based on international eLegislation standards.
- Using the XML authoring tool, the Commission is in a position to update the Legislation Directory on a regular basis, subject to the availability of the XML version of Acts and Statutory Instruments.
- The Commission has begun to include in the Legislation Directory pre-1922 amendments to pre-1922 (pre-Independence) Acts that remain in force. Until now, only amendments made after 1922 to pre-1922 Acts were tracked in the Legislation Directory. By the end of 2010, the Commission had tracked amendments to Acts from 1900 onwards (by early 2011, the years 1870-1922 had been indexed and loaded on the eISB). For example, all changes made pre-1922 and post-1922 to the *Probation of Offenders Act 1907* (which is applied in the District Court on a regular basis) are now available on the Legislation Directory.

When the Commission took over the Legislation Directory project, it realised that there was a significant deficit in relation to secondary legislation. There was no equivalent Legislation Directory database for this body of law. The Commission thus also began working on a Legislation Directory of statutory instruments from 2006 onwards, which would allow tracking of amendments made to these important statutory materials. Each year, about 40 Acts are passed by the Oireachtas, while over 600 Statutory Instruments are made. Thus while the Oireactas has enacted over 3,000 Acts since 1922 (in respect of which, because of the existence of the Legislation Directory, we are able to state that over 2,000 remain in force, these), up to 20,000 statutory instruments have been made since 1922 (but we are unable to say with any precision how many of these remain in force). Again, the Commission will endeavour to supply monthly updates to this new database but this is dependent on the availability of relevant legal texts.

The Commission also began work on a Classified List of Secondary Legislation in Ireland. This is to identify secondary legislation which remains in force in the State. This mirrors the project on a Classified List of Legislation in Ireland, discussed in Chapter 5, below.

CHAPTER 5

CLASSIFIED LIST OF LEGISLATION IN IRELAND

OVERVIEW

Arising from the Commission's ongoing participation in the eLegislation Group, the Commission developed the first list of Acts of the Oireachtas that remain on the statute book, over 2,000 in all of the 3,000 Acts passed since the foundation of the State in 1922, brought together under 36 major subject-matter headings. The eLegislation Group invited the Commission to develop a draft classified list of Acts of the Oireachtas in order to identify accurately all Acts enacted by the Oireachtas that remain extant (that is, not repealed). A definitive list of 1,364 pre-1922 Acts that remained in force as of 2007 had already been set out in Schedule 1 of the *Statute Law Revision Act 2007*. A classified list would identify related groups of Acts of the Oireachtas (for example, all those dealing with business regulation, employment law or taxation) and assist accessibility for all those affected by the law, whether individuals, businesses or State bodies. The development of the classified list complements the Commission's work on Statute Law Restatement and the Legislation Directory, discussed in Chapters 3 and 4, above.

In September 2010, the Department of the Taoiseach (on behalf of the eLegislation Group and the Commission) circulated an initial draft Classified List of Extant Post-1922 Acts in Force in Ireland to all 15 Government Departments. Each Department's reply made important corrections to the draft List, notably by identifying any errors in the assignment of Acts and as to the appropriate heading under which Acts were listed. After this process was completed, the Commission (as promised) placed the amended draft Classified List of Extant Post-1922 Acts in Force in Ireland on this website. The Commission then followed up by publishing a *Consultation Paper on a Classified List of Legislation in Ireland* (LRC CP 62-2010), which sets this initial process of developing a Classified List in a wider national and comparative setting.

CONSULTATION PAPER ON A CLASSIFIED LIST OF LEGISLATION IN IRELAND

The Consultation Paper notes that it can be seen in the context of the Government's 2004 White Paper, *Regulating Better*, and the 2008 Framework Document, *Building Ireland's Smart Economy*, both of which have been influenced by Reports on Better Regulation and Regulatory Reform published in recent years by the Organisation for Economic Co-operation and Development (OECD). The development of a classified list of legislation relates in particular to two *Regulating Better* principles, Transparency (is regulation accessible to all) and Accountability (who is responsible for what); it also relates to Action Area 5 of *Building Ireland's Smart Economy*, in particular Smart Regulation.

The Consultation Paper also points out that classified lists of legislation have been developed in other countries such as the United States. The federal United States Code (USC) contains all the legislation of the US Congress under 50 subject headings, called Titles, and is available at the website of the US Federal Digital System (FDsys), www.gpo.gov/fdsys. For example, Title 11 of the USC deals with Bankruptcy. Similar codes have been developed in the 50 US states, and also in many EU States.

The Consultation Paper contains a list of over 2,000 Acts that remain in force (in terms of post-1922 Acts, derived from the tracking of repeals in the Legislation Directory)

and which the Commission has classified under 36 subject headings. These headings are based on:

- the headings (Titles) used in the federal United States Code (USC) and the state Legislative Code of Maryland,
- the areas of responsibility of relevant Government Departments,
- some well-known headings, such as Business Regulation, Criminal Law, Employment Law and Taxation, which do not correspond directly to Departmental names but where the relevant Department is easy to identify,
- headings that are unique to Ireland, such as heading 21, Irish Language and Gaeltacht.

The Commission has included in the classified list over 100 pre-1922 Acts (derived from the definitive list of pre-1922 Acts that remain in force, as set out in the *Statute Law Revision Act 2007*), resulting in a total list of over 2,000 Acts.

The 36 subject headings in the Classified List are:

1. **Agriculture and Food** (primarily: Department of Agriculture, Fisheries and Food) (Maryland 1; USC part of Title 21)
2. **Arts, Culture and Sport** (primarily: Department of Tourism, Culture and Sport; Department of the Environment, Heritage and Local Government) (Maryland 3 and 20: part of each)
3. **Business Occupations and Professions** (Various Departments) (Maryland 2)
4. **Business Regulation, Including Business Names, Company Law and Partnership** (primarily: Department of Enterprise, Trade and Innovation) (Maryland 3 and 5; USC Title 11)
5. **Citizenship, Equality and Individual Status** (primarily: Department of Community, Equality and Gaeltacht Affairs; Department of Justice and Law Reform; Department of Health and Children) (USC Title 8)
6. **Civil Liability (Contract and Tort) and Dispute Resolution** (primarily: Department of Enterprise, Trade and Innovation; Department of Justice and Law Reform) (USC Title 9)
7. **Commercial Law** (primarily: Department of Enterprise, Trade and Innovation) (USC 17 and 35; Maryland 4)
8. **Communications and Energy** (Department of Communications, Energy and Natural Resources) (Maryland 25)
9. **Courts and Courts Service** (Department of Justice and Law Reform) (Maryland 7 and 9)
10. **Criminal Law** (Department of Justice and Law Reform) (Maryland 8)
11. **Defence Forces** (Department of Defence) (USC Title 10)
12. **Education and Skills** (Department of Education and Skills) (Maryland 11)
13. **Election and Referendum Law** (Department of the Environment, Heritage and Local Government) (Maryland 12)
14. **Employment Law** (Department of Enterprise, Trade and Innovation) (Maryland 22)
15. **Enterprise and Economic Development** (primarily: Department of Enterprise, Trade and Innovation; Department of Finance; Department of Tourism, Culture and Sport) (Maryland 10)
16. **Environment** (Department of the Environment, Heritage and Local Government) (Maryland 13)
17. **Family Law** (Department of Justice and Law Reform; Department of Health and Children) (Maryland 15)
18. **Financial Services and Credit Institutions** (primarily: Department of Finance; Department of Enterprise, Trade and Innovation) (Maryland 16 and 21)
19. **Foreign Affairs and International Relations** (primarily: Department of Foreign Affairs; Department of the Taoiseach) (USC Title 22)
20. **Garda Síochána (Police)** (Department of Justice and Law Reform)

21. **Health and Health Services** (Department of Health and Children) (USC Title 21: part; Maryland 18)
22. **Irish Language and Gaeltacht** (Department of Community, Equality and Gaeltacht Affairs)
23. **Land Law, Succession and Trusts** (primarily: Department of Justice and Law Reform; Department of the Environment, Heritage and Local Government) (Maryland 14 and 26)
24. **Licensed Sale of Alcohol** (Department of Justice and Law Reform) (USC Title 27)
25. **Local Government** (primarily: Department of the Environment, Heritage and Local Government) (Maryland 28)
26. **National Government** (primarily: Department of the Taoiseach; Department of Finance) (Maryland 28; USC Title 40)
27. **Natural Resources** (primarily: Department of Communications, Energy and Natural Resources) (Maryland 23)
28. **Oireachtas (National Parliament) and Legislation** (primarily: Department of the Taoiseach; Department of Finance) (USC Title 40)
29. **Planning, Development and Housing** (primarily: Department of the Environment, Heritage and Local Government) (Maryland 19)
30. **Prisons and Places of Detention** (Department of Justice and Law Reform) (Maryland 6)
31. **Public Safety (Including Building Standards, Fire Safety, Product Safety and Safety and Health at Work)** (Various Departments) (Maryland 24)
32. **Social Welfare, Pensions and Community Services** (Department of Social Protection; Department of Community, Equality and Gaeltacht Affairs) (Maryland 20)
33. **State Finance and Procurement** (primarily: Department of Finance) (Maryland 27)
34. **State Personnel and Superannuation/Pensions** (Department of Finance) (Maryland 29)
35. **Taxation** (Department of Finance) (Maryland 30 and 31; USC Title 19)
36. **Transport** (Department of Transport) (Maryland 32).

The Commission intends to publish a Report on this matter by the end of 2011. In the meantime, the Commission is committed to updating on a regular basis the Classified List of Legislation in Ireland (in February 2011, the Commission published Version 3 on its website).

CHAPTER 6

ADMINISTRATION

INTRODUCTION

In this Chapter, the Commission outlines the administrative aspects of its work. It focuses on the essential administrative arrangements and supports which ensure that the Commission's Rolling Work Programme can be carried out in practice. The current organisation structure of the Commission (as of 2010) is set out in Appendix E.

THE COMMISSION

The Commission consists of a President and 4 Commissioners. The Commissioners are appointed by the Government for a term of up to 5 years, and their appointment may be renewed. In 2010, the Commission consists of the President, a full-time Commissioner and three part-time Commissioners. The President of the Commission (to February 2011) Mrs Justice Catherine McGuinness is a former judge of the Supreme Court. The full-time Commissioner, Patricia Rickard-Clarke, is a solicitor who, until her appointment, had been a partner with McCann FitzGerald, Solicitors. The three part-time Commissioners are: Professor Finbarr McAuley, Jean Monnet Professor of Criminal Law, University College Dublin; Marian Shanley, Solicitor, formerly member of the Commission to Inquire into Child Sexual Abuse; and Mr Justice Donal O'Donnell, judge of the Supreme Court.

The Commission decides on the content of the programme of law reform, determines the contents of the research output of the Commission (contained in Consultation Papers and Reports), and makes all key administrative and financial decisions. The Commission meets formally as a body at least once a month. In addition, its members meet frequently and are in ongoing communication and consultation with each other and with Commission staff.

MANAGEMENT COMMITTEE

The Commission's Management Committee consists of the President of the Commission, the full time Commissioner, the Head of Administration and Development, the Director of Research, the Restatement Project Manager and the Legislation Directory Project Manager. The Management Committee meets on a regular basis to review all major issues relevant to the efficient and effective operation of the Commission. One of the principal responsibilities of the Committee is to monitor progress on achieving the targets set out in the Commission's Annual Business Plan, which is updated on a quarterly basis.

ADMINISTRATIVE STAFF

The Commission's administrative and library staff consisted of a Head of Administration and Development and a team of 7 staff as of December 2010. During the first half of 2010, transfer and other arrangements were put in place to take into account the major reduction of 35% in the Commission's grant-in-aid for 2010.

During 2010, the Administration Unit had overall responsibility for carrying out the day-to-day administrative tasks within the Commission. In particular the Unit is responsible for:

- Managing, processing and reporting on all financial transactions in the Commission. The latter includes managing the Commission's payroll function
- Maintaining the Commission's buildings and IT infrastructure
- Managing the Commission's human resource function
- Providing administrative support for the research function
- Carrying out a variety of administrative functions in relation to launches of publications and the printing of Reports and Consultation Papers

From February 2010, in the absence of any person in the post of Head of Administration and Development, this was carried out by the members of the administrative staff, acting under the direction of the Commission.

The Administration Unit provides support for the research function within the Commission. Typically this involves arranging for the printing and distribution of the Commission's publications and planning and organising the various tasks associated with the launch of the Commission's publications. The Administration Unit was also involved in the preparation of launches, seminars and the Annual Conference.

RESEARCH AND LIBRARY STAFF

The primary role of the Commission's research staff is to develop draft texts for consideration by the Commission to enable it carry through its rolling Work Programme. This includes preparing an initial Project Initiation Document and Scoping Paper for a project, which sets out the parameters of the areas under discussion. In the later stages of a project this involves the development of a draft Consultation Paper or Report and, where the Commission deems it appropriate, a Seminar Paper.

Research Team

The law reform research team is headed by the Director of Research, to whom the law reform research staff report directly. The present Director of Research is Raymond Byrne, formerly of the School of Law and Government, Dublin City University. The Commission's projects on Statute Law Restatement and the Legislation Directory are overseen by two project managers. During 2010, the Commission had authority to employ 8 full-time Legal Researchers (in 2009 this had been 15), who are usually engaged on one year contracts. These 8 researchers are assigned by the Commission to law reform, Statute Law Restatement and the Legislation Directory. From time to time, the Commission also consults with external experts for particular projects and also establishes Working Groups on specific topics.

The function of the Director of Research is to lead and manage the law reform research team, and generally advise and assist the researchers with a view to assuring an appropriate output and quality of work. This includes carrying out general background research, preparing Scoping Papers, preparing draft documents and draft Consultation Papers and Reports for consideration by the Commission. The Director conducts a number of seminars during the year for the researchers on areas of particular interest and the researchers meet regularly as a group to exchange views on the areas on which they are conducting research. Researchers also attend conferences on relevant areas of interest. Legal Researchers are also encouraged to publish in relevant law journals during their time with the Commission. This includes articles dealing with areas on which the researcher is actively involved.

Library and Information Services

The primary role of the Commission's library, which is an indispensable tool of the Commission, is to anticipate and respond to the needs of the Commissioners and the Commission's research team for library and information services in partnership with other libraries and information providers. The library is staffed by a Legal Information Manager/Librarian and a Cataloguer/Library Assistant. Assistance is also provided, when required, by members of the administrative staff.

The Legal Information Manager/Librarian works in close consultation with the research teams to provide timely access to new hard-copy and electronic resources. An internal bulletin of current legal developments, focusing on new library acquisitions, is circulated to all staff on a weekly basis. The Legal Information Manager/Librarian is assisted in his role by a full time Cataloguer.

FINANCE

Income and expenditure

The Commission is funded by a grant-in-aid from the Minister for Finance, and the grant-in-aid figure for 2010 was €2,385,000 (reduced from the 2009 allocation of €3,296,894). A sum of €5,704 was received from the sale of publications (in 2009, this was €6,533).

Expenditure in 2010 amounted to €2,382,673 (compared to €3,582,727.52 in 2009). The expenditure covered salaries and superannuation of Commissioners and staff, rent and premises overheads, maintenance of the Commission's library, maintenance of the Commission's IT network and printing and distribution costs.

In the first half of 2010 in particular, there was ongoing liaison between the Commission and the Office of the Attorney General having regard to the major reduction in the Commission's grant-in-aid for 2010. During that time, the Commission implemented a process of redeployment of three civil service staff and a reduction from 15 to 8 in the number of sanctioned contract research staff.

Prompt payments

The Commission did not incur any late interest penalties during 2010 under the *Prompt Payment of Accounts Act 1997*, as amended by the *European Communities (Late Payment in Commercial Transactions) Regulations 2002*.

Audit Committee

The Commission's Audit Committee monitors on an ongoing basis the Commission's grant-in-aid, and liaises with the internal audit committee of the Office of the Attorney General.

ENERGY EFFICIENCY

In accordance with the *European Communities (Energy End-use Efficiency and Energy Services) Regulations 2009* (SI No.542 of 2009), and Directive 2006/32/EC, the Commission ensured during 2010 that it engaged in appropriate steps concerning energy conservation and reduction measures. In support of these, the Commission engaged with Sustainable Energy Ireland to assess energy use. This identified non-cost, low-cost and longer term actions, to which the

Commission committed. The following specific steps were taken by the Commission in 2010.

- When upgrading emergency lighting, the Commission installed T5 lights to replace existing T8 lights. The Commission will replace T8 lights on an ongoing basis.
- The Commission installed 4 new fan controls in offices where these did not currently exist, to ensure that air conditioning fans could be turned off when not needed.

In 2010, the Commission began the process of exploring the fitting of monitoring meters and software to measure information on usage.

The Commission also engaged in ongoing internal information and communication concerning energy usage, including: to turn off lights where a member of staff will not be in the room for more than 10 minutes; to ensure that computer screens are turned off where a member of staff will be away from their desk for an appreciable length of time, and on leaving the office in the evening.

GOVERNANCE ARRANGEMENTS

Overall responsibility and accountability for Commission activities rests with the Commission. The Commission is assisted in that role by the Management Committee, the Administrative Unit, the Research team and the Library staff.

The *Strategy Statement* objectives, listed in Chapter 1, are matched at an organisation level by a series of targets which are set out in the Commission's Annual Business Plan. The Business Plan contains quarterly targets under each strategic objective. Progress made in achieving these targets is monitored on a regular basis by the Management Committee, with a formal review each quarter.

Performance of individual staff members is managed through a performance management system for both managers and staff. Civil servants are subject to the Civil Service Performance Management Development System. For all other staff, the Commission has its own performance management system which is overseen by the full-time Commissioner.

Under current accounting procedures, monies are drawn down from the Office of the Attorney General on a monthly basis by way of a Grant-In-Aid. As indicated, the Commission also derives some income from the sale of publications. Commission internal financial controls and expenditure are monitored by the Comptroller and Auditor General on an annual basis. The Commission is also subject to audit by the Office of the Attorney General's Internal Audit Unit and maintains its own Internal Audit Committee, which is chaired by Commissioner Shanley.

The Commission's risk management register is updated on a regular basis and is kept under review by the Commission.

Appendix A:

LIST OF PROJECTS IN THIRD PROGRAMME OF LAW REFORM 2008-2014

A. Legal System and Public Law

1. The Law Relating to Juries
2. Debt Enforcement and Securing Interests over Personal Property
3. Bench Warrants and Search Warrants
4. Limitation of Actions
5. Alternative Dispute Resolution
6. Consolidation and Reform of the Courts Acts

B. Law of Evidence

7. Documentary Evidence and Technology
8. Hearsay in Civil and Criminal Cases
9. Advance Disclosure of Defence Cases
10. Forensic Evidence
11. Expert Evidence

C. Criminal Law

12. The Law of Sexual Offences
13. The Victim and the Criminal Justice System
14. Vulnerable Persons and the Criminal Justice System
15. Restorative Justice
16. Having regard to the establishment of the Criminal Law Codification Advisory Committee, examination of issues arising in the general part of the criminal law
17. The Law of Homicide
18. Defences in the Criminal Law
19. Inchoate Offences

D. Land Law and Property

20. Further Statutory Codification of Land Law
21. Trust Law and the Settled Land Acts
22. eConveyancing Road Map

E. Family Law

23. Legal Aspects of Family Relationships
24. Domestic Violence
25. The Law of Annulment in the 21st Century

F. Specific Groups in a Changing Society

26. Children and the Law
27. Gender Recognition
28. Legal Aspects of the New and Emerging Members of Irish Society (Reunification Procedures and Citizenship)
29. Legal Aspects of Carers

G. Technology, Innovation and the Individual

30. Legal Aspects of Bioethics
31. Legal Aspects of Assisted Human Production
32. Privacy

H. Commercial Law and the Law of Obligations

- 33. Frustration of Contracts
- 34. Insurance Contracts
- 35. Damages in Contract and Tort Law

I. International Law

- 36. The Status of International Law in Domestic Irish Law
- 37. Civil Law Aspects of the Law of Missing Persons

Appendix B: **WORKING GROUPS AND PROJECT BOARDS**

As noted in Chapter 1, under the *Law Reform Commission Act 1975*, the Commission may set up Expert Working Groups to examine particular areas of the law. Working Groups meet on a regular basis during the lifetime of a particular project. The Commission may also, where required, establish a Project Board to ensure the timely progress of a specific project. In addition, the Commission has also set up *ad hoc* groups (which meet occasionally) to consult with on particular topics.

WORKING GROUP ON PERSONAL DEBT MANAGEMENT AND DEBT ENFORCEMENT

In January 2010, the Commission convened a Working Group on Personal Debt Management and Debt Enforcement, arising from issues addressed in its project on personal debt management and enforcement. The Working Group met on six occasions between January and April 2010. The meetings were held in the Commission's offices and the Commission provided the secretariat for the Working Group. The Working Group's deliberations led to the Commission's *Interim Report on Personal Debt Management and Debt Enforcement*, published in May 2010 (discussed in Chapter 2, above).

Members of Working Group on Personal Debt Management and Debt Enforcement

Courts Service:

Mr. Noel Rubotham, Director of Reform and Development
Ms. Nuala McLoughlin, Chief Registrar and Head of Supreme and High Court Operations

Department of Finance:

Mr. Eamonn Kearns, Director, Financial Services Division
Ms. Mary Carrick, Assistant Principal Officer, Financial Services Division

Department of Justice and Law Reform:

Mr. Robert Browne, Assistant Secretary General
Mr. Brendan McNamara, Principal Officer

Financial Regulator:

Ms. Sharon Donnery, Head of Consumer Protection Codes
Ms. Joanna Farnan, Office of Financial Regulator

Irish Banking Federation:

Ms. Eimer O'Rourke, Head of Retail Banking
Mr. Shane Martin, Retail Banking Advisor

Money Advice and Budgeting Service:

Mr. Michael Culloty, Social Policy and Communications, MABS ND
Ms. Annmarie O'Connor, Business Manager, MABS ND

Law Reform Commission:

Mrs. Justice Catherine McGuinness, President (Chairperson of Working Group)
Ms. Patricia T Rickard-Clarke, full-time Commissioner
Mr. Raymond Byrne, Director of Research
Mr. Joseph Spooner, Legal Researcher

EXPERT GROUP ON THE LAND AND CONVEYANCING LAW REFORM ACT 2009

In 2006, at the request of the Attorney General and the Minister for Justice, Equality and Law Reform, the Commission convened an Expert Group to assist in drafting the *Land and Conveyancing Law Reform Bill 2006*, which was based on its draft Bill in the *Report on the Reform and Modernisation of Land Law and Conveyancing Law* (LRC 74-2005) and which was enacted by the Oireachtas as the *Land and Conveyancing Law Reform Act 2009*. In the wake of the enactment of the 2009 Act, the Expert Group is convened from time to time to discuss and consider possible amendments to the 2009 Act.

Members of Expert Group on the Land and Conveyancing Law Reform Act 2009

Mrs Justice Catherine McGuinness, President
Commissioner Patricia T Rickard-Clarke
Mr Raymond Byrne, Director of Research
Professor John C W Wylie, Professor of Law, Cardiff University
Mr John Deeney, Property Registration Authority
Mr Seamus Carroll, Principal Officer, Department of Justice and Law Reform

PROJECT BOARD ON THE CONSOLIDATION AND REFORM OF THE COURTS ACTS

In January 2008, the Commission established a Project Board on the Consolidation and Reform of the Courts Acts. This is a joint project involving the Commission, the Department of Justice, Equality and Law Reform and the Courts Service, whose work culminated in the Commission's *Report on the Consolidation and Reform of the Courts Acts* (discussed in Chapter 2, above).

Members of Project Board on the Consolidation and Reform of the Courts Acts

Mrs Justice Catherine McGuinness, President
Commissioner Patricia T Rickard-Clarke
Mr Raymond Byrne, Director of Research
Mr Sean Barton, McCann FitzGerald, Solicitors (drafting specialist for the draft *Courts Consolidation and Reform Bill*)
Mr Brian O'Neill, Assistant Principal Officer, Courts Policy Division, Department of Justice and Law Reform
Mr Noel Rubotham, Director of Reform and Development, Courts Service

Appendix C: CONFERENCES AND VISITS

As discussed in Chapter 1, Commissioners regularly attend and participate in public seminars and conferences concerning areas of research connected with the Third Programme and the Commission's Rolling Programme of Work. Contacts with law reform bodies are also maintained through attendance at relevant seminars and through hosting visits from other law reform bodies. The following is a *selection* of conferences attended - and other external discussions conducted - by Commissioners and researchers during 2010. In many instances, these involved delivering papers concerning the Commission's work.

18 January	Family Relationships Commissioner Patricia Rickard-Clarke attended a seminar held by One Family to discuss the Consultation Paper on Legal Aspects of Family Relationships.
8 January	Children and the Law President attended a meeting at the Children's Rights Alliance offices
25 January	Children and the Law President attended a Children's Rights Launch of Report Card 2010, which unveiled the grade given to Government on its implementation of key commitments to children.
29-31 January	Family Law President attended a Family Lawyers Conference in Powerscourt, Co. Wicklow
9 February	Land and Conveyancing Law Reform Act 2009 Commissioner Patricia Rickard-Clarke spoke at a STEP Workshop.
17 February	Statute Law Restatement Catriona Moloney, Legal Researcher, delivered a lecture on Restatement to a Law Master's class in NUI Galway
19 February	Law and the Older Person/Mediation Commissioner Patricia Rickard-Clarke attended a Discussion Forum on Elder Mediation chaired by Nora Owen
25, 26 February	Bioethics Commissioner Patricia Rickard-Clarke and Legal Researcher Ciara Staunton attended a conference hosted by the Coombe Women and Infants University Hospital and Trinity College Dublin on "Towards the Development of National Guidelines on 1 Management of the morbidly adherent placenta 2 Use of misoprostol in obstetrics and gynaecology 3 Management of patients who decline blood products"
26 February	Mental Health Commissioner Patricia Rickard-Clarke spoke at a Mental Health Law Conference in UCC
25 February	Debt presentation by the Director of Research, Raymond Byrne to Irish Institute of Credit Managers, Dublin
1 March	Criminal Law Director of Research, Raymond Byrne, interview on The Afternoon Show, RTE, on the Commission's <i>Report on Defences in Criminal Law</i> (defence of home).

- 2 March **Law and the Older Person** Commissioner Patricia Rickard-Clarke attended a talk at UCD organised by the National Centre for the Protection of Older People
- 2 March **ADR** Commissioner Patricia Rickard-Clarke attended DSBA Family Lawyer Mediators discussion
- 3 March **Law and the Older Person** Commissioner Patricia Rickard-Clarke attended a conference “The Business of Ageing: Turning Silver into Gold” at the Royal Hospital Kilmainham
- 3 March **Law and the Older Person** President attended TILDA (The Irish Longitudinal Study on Ageing) launch in TCD
- 5 March **ADR** President and Legal Researcher Nicola White spoke at, and Commissioner Rickard-Clarke attended, the National Mediation Conference Symposium in Trinity College Dublin
- 6 March **Debt** Legal Researcher Joseph Spooner presented a paper at the Irish Society of Comparative Law Annual Conference “Comparative Personal Insolvency Law and ‘Bankruptcy Tourism’ within the European Judicial Area: from Debtors’ Prison to Debtors’ Paradise via the EC Insolvency Regulation.”
- 10 March **Family Law** President attended a talk on Family Law in NUIG
- 12 March **Law Reform** Commissioner Patricia Rickard-Clarke gave a talk to the LLM students in NUIG
- 15 March **Debt** Legal Researcher Joseph Spooner gave a presentation on the Commission’s *Consultation Paper on Personal Debt Management and Debt Enforcement* at a seminar of the NUIG Free Legal Advice Centre
- 25 March **Children and the Law** Commissioner Patricia Rickard-Clarke attended a talk on “Reducing teenage pregnancy and sexual activity: what works and what doesn’t” organised by the Iona Institute
- 25 March **Public Inquiries Including Tribunals of Inquiry** President, Commissioner Patricia Rickard-Clarke and Director of Research Raymond Byrne met with Oireachtas Committee of Public Accounts in relation to Tribunals of Inquiry
- 19 April **Debt** Commissioner Patricia Rickard-Clarke and Legal Researcher Joseph Spooner attended a consultative meeting held jointly by the Social Inclusion Division of the Department of Social and Family Affairs and the ESRI concerning a new study on the links between income, poverty and over-indebtedness/financial exclusion
- 20 April **Debt** Commissioner Patricia Rickard-Clarke and Legal Researcher Joseph Spooner attended an Irish Bankers Federation Conference on the Delivering a Sustainable Mortgage Market
- 30 April **Mental Health** President at Irish College of Psychiatrists Meeting

- 19 May **Capacity and Consent** Commissioner Patricia Rickard-Clarke delivered a paper to Post Graduate students College of Dentistry TCD
- 28 May **Mandatory Sentences** President and Legal Researcher John Byrne attended seminar at Dublin Castle on 'Criminal Sanctions' organised by the Department of Justice, Equality and Law Reform
- 26 May **Debt** Commissioner Patricia Rickard-Clarke and Legal Researcher Joseph Spooner attended a briefing seminar held by the IMF Mission to Ireland at the Department of Finance
- 27 May **Debt** Commissioner Patricia Rickard-Clarke and Legal Researcher Joseph Spooner attended a seminar on Responsible Borrowing and Lending held by the Irish Banking Federation at the Institute of Bankers
- 28 May **Mental Capacity** Commissioner Patricia Rickard-Clarke presented a paper on the subject of Mental Capacity at the STEP Ireland Annual Conference
- 14 May **Law and the Older Person** Commissioner Patricia Rickard-Clarke attended an Ageing Well Network Conference
- 19 May **Advance Care Directives** President attended an End of Life Conference in Clontarf Castle
- 1 June **Law and the Older Person** Commissioner Patricia Rickard-Clarke attended National Centre for Protection of Older People (NCPOP) Seminar "Public Perceptions of Elder Abuse" in UCD
- 11 June **Law and the Older Person** Director of Research Raymond Byrne attended Irish Gerontological Society Royal Irish Academy Dublin Conference "New Technologies and Techniques in Ageing Education"
- 15 June **Law and the Older Person** Commissioner Patricia Rickard-Clarke attended HSE/UCD seminar (World Elder Abuse Day) "Open your eyes"
- 22 June **Law and the Older Person** Commissioner Patricia Rickard-Clarke attended first meeting of HSE Steering Group of Financial Abuse of Older People
- 1 June **Trust Law** Commissioner Patricia Rickard-Clarke at the request of the Revenue Commissioners attended a meeting to prepare submission to OECD on Trusts
- 10-11 June **Law Reform** President and Commissioner Patricia Rickard-Clarke attended the Annual Conference of the Law Commissions of the 5 Jurisdictions (England & Wales, Scotland, Northern Ireland, Republic of Ireland & Jersey) in London
- 11 June **Sexual Offences** Legal Research Intern Sinead Kane attended the 4th Annual Criminal Law Conference "Accommodating Victims in the Criminal Justice System: An Inclusionary or Punitive Logic?" at UCC

9, 17 June	Multi-unit Developments Commissioner Patricia Rickard-Clarke spoke at Conveyancing of Apartments SLS Seminars at the City Hotel Armagh and Stormont Hotel Belfast
26 June	Criminal Law Legal Researchers Siobhan Drislane and Gemma Ni Chaoimh attended a Criminal Law Update Conference in Trinity College Dublin
22 June	Debt The Commission made a presentation to the Oireachtas Joint Committee on Economic and Regulatory Affairs
4 June	Debt Commissioner Patricia Rickard-Clarke spoke at a Conference at Griffith College on Personal Insolvency and Bankruptcy Law
1, 8, 15, 22, 29 June	Debt Commissioner Patricia Rickard-Clarke attended, as member, meetings of Government's Expert Review Group on Mortgage Debt
1 July	Debt Commissioner Patricia Rickard-Clarke and Legal Researcher Joseph Spooner attended IBF Breakfast Briefing on the Role of Mediation in Debt Management
12 July	Debt Commissioner Patricia Rickard-Clarke and Legal Researcher Joseph Spooner attended a meeting with representatives of the Debt Management Association of Ireland
30 August	Law and the Older Person Commissioner Patricia Rickard-Clarke attended meeting of HSE Working Group on Older People, Dublin
31 August	Debt Commissioner Patricia Rickard-Clarke attended meeting of Mortgage Arrears Expert Group, Dublin
21-23 September	Debt Commissioner Patricia Rickard-Clarke attended and spoke at the International Association of Insolvency Regulators Annual General Meeting & Conference 2010
7 September	eConveyancing Commissioner Patricia Rickard-Clarke attended an eConveyancing meeting at the Law Society of Ireland
15 September	Access to Justice: Commissioner Patricia Rickard-Clarke presented a paper on Access to Justice in the context of Law Reform at the Legal Aid Board's 30 th Anniversary Conference
17 September	Vulnerable Persons President and Commissioner Patricia Rickard-Clarke attended Public Guardianship Conference at Farmleigh House, Dublin
23 September	Penal Reform Project Manager Heather Mahon attended Irish Penal Reform Trust Conference 'Shifting Focus – From Criminal Justice to Social Justice' at the Gresham Hotel Dublin
23-24 September	Legal Systems Project Manager Alma Clissmann attended European Forum of Official Gazettes 7 th Annual Meeting in Rome
30 September	Law Reform President attended Northern Ireland Law Commission's Annual Conference

30 September	Trust Law Commissioner Patricia Rickard-Clarke presented an update on Trust Law to CPD at Law Society
16 October	Mental Health Commissioner Patricia Rickard-Clarke spoke at the Daughters of Charity Technology Research into Disability Conference in National University of Ireland Maynooth
20 October	Law and the Older Person Commissioner Patricia Rickard-Clarke attended conference for Centre for Ageing Research and Development in Ireland (CARDI)
8 October	Mental Health Legal Researcher Darelle O’Keeffe attended the Dublin Solicitors Bar Association and the Irish Mental Health Lawyers Association Continuing Professional Development Seminar – Mental Health Law: The Need for Change
13 October	Mental Health Legal Researcher Darelle O’Keeffe attended NDA Annual Conference
15 October	Criminal Law President chaired the 13 th Annual Conference of the Association for Criminal Justice Research & Development (ACJRD) on Women in the Criminal Justice System
20 October	Equality President chaired a conference on Equality in Dublin Castle
19-21 November	Family Law President attended Family Lawyers conference
23 November	Debt Commissioner Patricia Rickard-Clarke spoke at Debt Conference in Griffith College
5 November	Criminal Law President attended ‘White-Collar Crime’ conference at the Criminal Court Complex
5 & 6 November	Family Law President attended Fostercarer’s Conference in Wesport Co Mayo
8 November	Administration President attended Department Chairs meeting at the IPA
8 November	Law and the Older Person Commissioner Patricia Rickard-Clarke attended National Centre for the Protection of Older People (NCPOP) conference
10 November	Law and the Older Person Commissioner Patricia Rickard-Clarke attended Age Action Ireland Conference
29 November	Law and the Older Person Commissioner Patricia Rickard-Clarke attended HSE Financial Abuse meeting
18 November	General President spoke at Business in the Community Conference at the Aviva Stadium
13 November	Children and the Law President attended Children’s Rights Alliance meeting

- 20 November **Human Rights** Commissioner Patricia Rickard-Clarke attended 8th Annual Human Rights Conference IHRC and Law Society
- 7 December **Mental Capacity** Commissioner Patricia Rickard-Clarke presented paper to HSE Senior Case Workers
- 16 December **Debt** Commission's Annual Conference and launch of *Report on Personal Debt Management and Debt Enforcement*

Appendix D: **LIST OF LAW REFORM COMMISSION PUBLICATIONS**

All Commission publications are available at www.lawreform.ie

First Programme for Examination of Certain Branches of the Law with a View to their Reform (PrI 5984, 1976)

Working Paper No 1-1977, The Law Relating to the Liability of Builders, Vendors and Lessors for the Quality and Fitness of Premises

Working Paper No 2-1977, The Law Relating to the Age of Majority, the Age for Marriage and Some Connected Subjects

Working Paper No 3-1977, Civil Liability for Animals

First (Annual) Report (PrI 6961 1977)

Working Paper No 4-1978, The Law Relating to Breach of Promise of Marriage Working Paper No 5-1978, The Law Relating to Criminal Conversation and the Enticement and Harboursing of a Spouse

Working Paper No 6-1979, The Law Relating to Seduction and the Enticement and Harboursing of a Child

Working Paper No 7-1979, The Law Relating to Loss of Consortium and Loss of Services of a Child

Working Paper No 8-1979, Judicial Review of Administrative Action: the Problem of Remedies

Second (Annual) Report (PrI 8855 1978/79)

Working Paper No 9-1980, The Rule Against Hearsay

Third (Annual) Report (PrI 9733 1980)

First Report on Family Law – Criminal Conversation, Enticement and Harboursing of a Spouse or Child, Loss of Consortium, Personal Injury to a Child, Seduction of a Child, Matrimonial Property and Breach of Promise of Marriage (LRC 1-1981)

Working Paper No 10-1981, Domicile and Habitual Residence as Connecting Factors in the Conflict of Laws

Fourth (Annual) Report (1981) (PI 742)

Report on Civil Liability for Animals (LRC 2-1982)

Report on Defective Premises (LRC 3-1982)

Report on Illegitimacy (LRC 4-1982)

Fifth (Annual) Report (1982) (PI 1795)

Report on the Age of Majority, the Age for Marriage and Some Connected Subjects (LRC 5-1983)

Report on Restitution of Conjugal Rights, Jactitation of Marriage and Related Matters (LRC 6-1983)

Report on Domicile and Habitual Residence as Connecting Factors in the Conflict of Laws (LRC 7-1983)

Report on Divorce a Mensa et Thoro and Related Matters (LRC 8-1983)

Sixth (Annual) Report (1983) (PI 2622)

Report on Nullity of Marriage (LRC 9-1984)

Working Paper No 11-1984, Recognition of Foreign Divorces and Legal Separations

Seventh (Annual) Report (1984) (PI 3313)

Report on Recognition of Foreign Divorces and Legal Separations (LRC 10-1985)

Report on Vagrancy and Related Offences (LRC 11-1985)

Report on the Hague Convention on the Civil Aspects of International Child Abduction and Some Related Matters (LRC 12-1985)
Report on Competence and Compellability of Spouses as Witnesses (LRC 13-1985)
Report on Offences Under the Dublin Police Acts and Related Offences (LRC 14-1985)
Report on Minors' Contracts (LRC 15-1985)
Report on the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (LRC 16-1985)
Report on the Liability in Tort of Minors and the Liability of Parents for Damage Caused by Minors (LRC 17-1985)
Report on the Liability in Tort of Mentally Disabled Persons (LRC 18-1985)
Report on Private International Law Aspects of Capacity to Marry and Choice of Law in Proceedings for Nullity of Marriage (LRC 19-1985)
Report on Jurisdiction in Proceedings for Nullity of Marriage, Recognition of Foreign Nullity Decrees, and the Hague Convention on the Celebration and Recognition of the Validity of Marriages (LRC 20-1985)
Eighth (Annual) Report (1985) (PI 4281)

Report on the Statute of Limitations: Claims in Respect of Latent Personal Injuries (LRC 21-1987)
Consultation Paper on Rape
Report on the Service of Documents Abroad re Civil Proceedings -the Hague Convention (LRC 22-1987)
Report on Receiving Stolen Property (LRC 23-1987)
Ninth (Annual) Report (1986-1987) (PI 5625)

Report on Rape and Allied Offences (LRC 24-1988)
Report on the Rule Against Hearsay in Civil Cases (LRC 25-1988)
Report on Malicious Damage (LRC 26-1988)
Report on Debt Collection: (1) The Law Relating to Sheriffs (LRC 27-1988)
Tenth (Annual) Report (1988) (PI 6542)

Report on Debt Collection: (2) Retention of Title (LRC 28-1988)
Report on the Recognition of Foreign Adoption Decrees (LRC 29-1989)
Report on Land Law and Conveyancing Law: (1) General Proposals (LRC 30-1989)
Consultation Paper on Child Sexual Abuse
Report on Land Law and Conveyancing Law: (2) Enduring Powers of Attorney (LRC 31-1989)
Eleventh (Annual) Report (1989) (PI 7448)

Report on Child Sexual Abuse (LRC 32-1990)
Report on Sexual Offences against the Mentally Handicapped (LRC 33-1990)
Report on Oaths and Affirmations (LRC 34-1990)

Report on Confiscation of the Proceeds of Crime (LRC 35-1991)
Consultation Paper on the Civil Law of Defamation
Report on the Hague Convention on Succession to the Estates of Deceased Persons (LRC 36-1991)
Twelfth (Annual) Report (1990) (PI 8292)
Consultation Paper on Contempt of Court
Consultation Paper on the Crime of Libel
Report on the Indexation of Fines (LRC 37-1991)
Report on the Civil Law of Defamation (LRC 38-1991)
Report on Land Law and Conveyancing Law: (3) The Passing of Risk from Vendor to Purchaser (LRC 39-1991)
Report on Land Law and Conveyancing Law: (4) Service of Completion Notices (LRC 40-1991)
Thirteenth (Annual) Report (1991) (PI 9214)
Report on the Crime of Libel (LRC 41-1991)

Report on United Nations (Vienna) Convention on Contracts for the International Sale of Goods 1980 (LRC 42-1992)
Report on the Law Relating to Dishonesty (LRC 43-1992)
Land Law and Conveyancing Law: (5) Further General Proposals (LRC 44-1992)

Consultation Paper on Sentencing
Consultation Paper on Occupiers' Liability
Fourteenth (Annual) Report (1992) (PN 0051)

Report on Non-Fatal Offences Against The Person (LRC 45-1994)
Consultation Paper on Family Courts
Report on Occupiers' Liability (LRC 46-1994)
Report on Contempt of Court (LRC 47-1994)
Fifteenth (Annual) Report (1993) (PN 1122)

Report on the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (LRC 48-1995)
Consultation Paper on Intoxication as a Defence to a Criminal Offence
Report on Interests of Vendor and Purchaser in Land during the period between Contract and Completion (LRC 49-1995)
An Examination of the Law of Bail (LRC 50-1995)
Sixteenth (Annual) Report (1994) (PN 1919)
Report on Intoxication (LRC 51-1995)

Report on Family Courts (LRC 52-1996)
Seventeenth (Annual) Report (1995) (PN 2960)
Report on Sentencing (LRC 53-1996)
Consultation Paper on Privacy: Surveillance and the Interception of Communications
Report on Personal Injuries: Periodic Payments and Structured Settlements (LRC 54-1996)
Eighteenth (Annual) Report (1996) (PN 3760)

Consultation Paper on the Implementation of The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993
Report on the Unidroit Convention on Stolen or Illegally Exported Cultural Objects (LRC 55-1997)
Report on Land Law and Conveyancing Law; (6) Further General Proposals including the execution of deeds (LRC 56-1998)
Consultation Paper on Aggravated, Exemplary and Restitutionary Damages
Nineteenth (Annual) Report (1997) (PN 6218)
Report on Privacy: Surveillance and the Interception of Communications (LRC 57-1998)
Report on the Implementation of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993 (LRC 58-1998)
Consultation Paper on the Statutes of Limitation: Claims in Contract and Tort in Respect of Latent Damage (Other Than Personal Injury)

Twentieth (Annual) Report (1998) (PN 7471)
Consultation Paper on Statutory Drafting and Interpretation: Plain Language and the Law (LRC CP14-1999)
Consultation Paper on Section 2 of the Civil Liability (Amendment) Act, 1964: The Deductibility of Collateral Benefits from Awards of Damages (LRC CP15-1999)
Report on Gazumping (LRC 59-1999)
Twenty First (Annual) Report (1999) (PN 8643)

Report on Aggravated, Exemplary and Restitutionary Damages (LRC 60-2000)
Second Programme for examination of certain branches of the law with a view to their reform: 2000-2007 (PN 9459)
Consultation Paper on the Law of Limitation of Actions arising from Non-Sexual Abuse Of Children (LRC CP16-2000)

Report on Statutory Drafting and Interpretation: Plain Language and the Law (LRC 61-2000)
Report on the Rule against Perpetuities and Cognate Rules (LRC 62-2000)
Report on the Variation of Trusts (LRC 63-2000)

Report on The Statutes of Limitations: Claims in Contract and Tort in Respect of Latent Damage (Other than Personal Injury) (LRC 64-2001)
Consultation Paper on Homicide: The Mental Element in Murder (LRC CP17-2001)
Seminar on Consultation Paper: Homicide: The Mental Element in Murder (LRC SP 1-2001)
Twenty Second (Annual) Report (2000) (PN 10629)

Consultation Paper on Penalties for Minor Offences (LRC CP18-2002)
Consultation Paper on Prosecution Appeals in Cases brought on Indictment (LRC CP19-2002)
Report on the Indexation of Fines: A Review of Developments (LRC 65-2002)
Twenty Third (Annual) Report (2001) (PN 11964)
Report on the Acquisition of Easements and Profits à Prendre by Prescription (LRC 66-2002)
Report on Title by Adverse Possession of Land (LRC 67-2002)
Report on Section 2 of the Civil Liability (Amendment) Act 1964: The Deductibility of Collateral Benefits from Awards of Damages (LRC 68-2002)

Consultation Paper on Judicial Review Procedure (LRC CP 20-2003)
Report on Penalties for Minor Offences (LRC 69-2003)
Consultation Paper on Business Tenancies (LRC CP 21-2003)
Report on Land Law and Conveyancing Law: (7) Positive Covenants over Freehold Land and other Proposals (LRC 70-2003)
Consultation Paper on Public Inquiries Including Tribunals of Inquiry (LRC CP 22 – 2003)
Consultation Paper on Law and the Elderly (LRC CP 23 – 2003)
Consultation Paper on A Fiscal Prosecutor and A Revenue Court (LRC CP 24 – 2003)
Consultation Paper on Multi-Party Litigation (Class Actions) (LRC CP 25 – 2003)
Consultation Paper on Corporate Killing (LRC CP 26 – 2003)
Consultation Paper on Homicide: The Plea of Provocation (LRC CP 27 – 2003)
Seminar on Consultation Paper: Law and the Elderly (LRC SP 2-2003)
Twenty Fourth (Annual) Report (2002)
Consultation Paper on General Law of Landlord and Tenant (LRC CP 28 – 2003)

Report on Judicial Review Procedure (LRC 71-2004)
Consultation Paper on the Establishment of a DNA Database (LRC CP 29-2004)
Consultation Paper on Judgment Mortgages (LRC CP 30-2004)
Consultation Paper on the Court Poor Box (LRC CP 31-2004)
Consultation Paper on the Rights and Duties of Cohabitees (LRC CP 32-2004)
Consultation Paper on Prosecution Appeals from Unduly Lenient Sentences in the District Court (LRC CP 33-2004)
Twenty Fifth (Annual) Report (2003)
Consultation Paper on the Reform and Modernisation of Land Law and Conveyancing Law (LRC CP 34-2004)
Report on A Fiscal Prosecutor and A Revenue Court (LRC 72 – 2004)

Consultation Paper on Trust Law – General Proposals (LRC CP 35-2005)
Consultation Paper on Charitable Trust Law – General Proposals (LRC CP 36-2005)
Twenty Sixth (Annual) Report (2004)
Consultation Paper on Vulnerable Adults and the Law: Capacity (LRC CP 37-2005)
Report on Public Inquiries Including Tribunals of Inquiry (LRC 73-2005)
Thirty Years of Law Reform 1975-2005 (Lecture by Mr Justice Ronan Keane to commemorate the 30th Anniversary of the Commission)
Report on Reform and Modernisation of Land Law and Conveyancing Law (LRC 74-2005)
Report on The Court Poor Box: Probation of Offenders (LRC 75-2005)
Report on Multi-Party Litigation (LRC 76-2005)

Report on Corporate Killing (LRC 77-2005)
Report on the Establishment of a DNA Database (LRC 78-2005)
Consultation Paper on Legal Structures for Charities (LRC CP 38-2005)

Report on eConveyancing: Modelling of the Irish Conveyancing System (LRC 79-2006)
Consultation Paper on Duress and Necessity (LRC CP 39-2006)
Report on Charitable Trusts and Legal Structures for Charities (LRC 80-2006)
Consultation Paper on Privity of Contract: Third Party Rights (LRC CP 40-2006)
Twenty Seventh (Annual) Report (2005)
Report on Prosecution Appeals and Pre-Trial Hearings (LRC 81-2006)
Consultation Paper on Legitimate Defence (LRC CP 41-2006)
Report on the Rights and Duties of Cohabitants (LRC 82-2006)
Report on Vulnerable Adults and the Law (LRC 83-2006)
Consultation Paper on Multi-Unit Developments (LRC CP 42-2006)

Consultation Paper on Aspects of Intercountry Adoption Law (LRC CP 43-2007)
Seminar Paper on Third Programme of Law Reform (LRC SP 3-2007)
Consultation Paper on Involuntary Manslaughter (LRC CP 44-2007)
Consultation Paper on Statute Law Restatement (LRC CP 45-2007)
Consultation Paper on Reform and Consolidation of Courts Acts (LRC CP 46-2007)
Report on Spent Convictions (LRC 84-2007)
Twenty Eighth (Annual) Report (2006)
Consultation Paper on Civil Liability of Good Samaritans and Volunteers (LRC CP 47-2007)
Report on Law of Landlord and Tenant (LRC 85-2007)
Report on Third Programme of Law Reform 2008-2014 (LRC 86-2007)

Report on Homicide: Murder and Involuntary Manslaughter (LRC 87-2008)
Report on Privity of Contract and Third Party Rights (LRC 88-2008)
Report on Aspects of Intercountry Adoption Law (LRC 89-2008)
Consultation Paper on Inchoate Offences (LRC CP 48-2008)
Report on Multi-Unit Developments (LRC 90-2008)
Report on Statute Law Restatement (LRC 91 - 2008)
Consultation Paper on the Legislation Directory: Towards a Best Practice Model (LRC CP 49 - 2008)
Consultation Paper on Alternative Dispute Resolution (LRC CP - 50 2008)
Annual Report 2007
Consultation Paper on Bioethics: Advance Care Directives (LRC CP 51 - 2008)
Report on Trust Law: General Proposals (LRC 92 - 2008)
Consultation Paper on Expert Evidence (LRC CP 52 - 2008)

Report on Civil Liability of Good Samaritans and Volunteers (LRC 93-2009)
Consultation Paper on Legal Aspects of Carers (LRC CP 53-2009)
Consultation Paper on Limitation of Actions (LRC CP 54-2009)
Report on Bioethics: Advance Care Directives (LRC 94-2009)
Consultation Paper on Legal Aspects of Family Relationships (LRC CP 55-2009)
Consultation Paper on Personal Debt Management and Debt Enforcement (LRC CP 56-2009)
Annual Report 2008
Consultation Paper on Electronic and Documentary Evidence (LRC CP 57-2009)
Consultation Paper on Search Warrants and Bench Warrants (LRC CP 58-2009)
Consultation Paper on Children and the Law: Medical Treatment (LRC CP 59-2009)
Report on Defences in Criminal Law (LRC 95-2009)

Consultation Paper on Jury Service (LRC CP 60 - 2010)
Consultation Paper on Hearsay in Civil and Criminal Cases (LRC CP 61 - 2010)
Interim Report on Personal Debt Management and Debt Enforcement (LRC 96 - 2010)
Report on Alternative Dispute Resolution: Mediation and Conciliation (LRC 97 - 2010)
Report on Consolidation and Reform of the Courts Acts (LRC 98 - 2010)

Report on Inchoate Offences (LRC 99 - 2010)

Annual Report 2009

Report on Personal Debt Management and Debt Enforcement (LRC 100 - 2010)

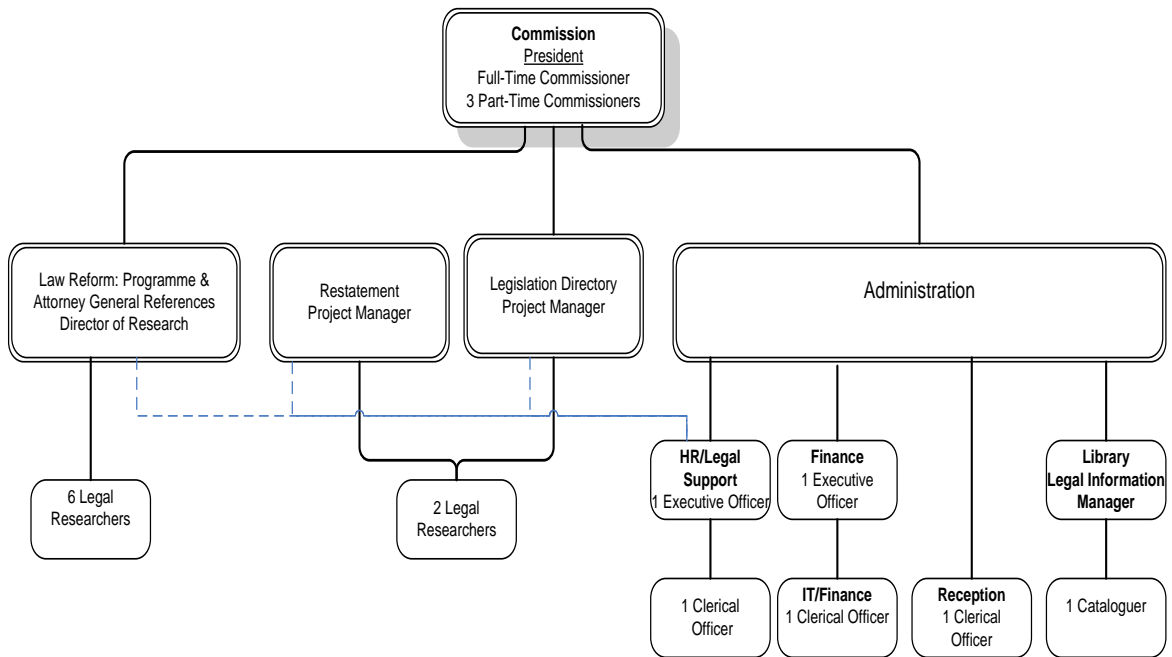
Report on Legal Aspects of Family Relationships (LRC 101 - 2010)

Consultation Paper on a Classified List of Legislation in Ireland (LRC CP 62 - 2010)

Report on the Legislation Directory (LRC 102 - 2010)

APPENDIX E:

ORGANISATION CHART⁴



Law Reform Commission Organisation Chart
December 2010

⁴ Organisation Chart as at December 2010.



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